

SITTING AS COURT OF IMPEACHMENT

JOURNAL OF THE SENATE

Tuesday, July 30, 1957

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The Senate, sitting as a court for the trial of Article of Impeachment against the Honorable George E. Holt, Circuit Judge for the Eleventh Judicial Circuit of Florida, convened at 9:30 o'clock A. M., in accordance with the rule.

The Chief Justice presiding.

The Managers on the part of the House of Representatives, Honorable Thomas D. Beasley and Honorable Andrew J. Musselman, Jr., and their attorneys, Honorable William D. Hopkins and Honorable Paul Johnson, appeared in the seats provided for them.

The respondent, the Honorable George E. Holt, with his counsel, Honorable Richard H. Hunt, Honorable William C. Pierce and Honorable Glenn E. Summers, appeared in the seats provided for them.

By direction of the Presiding Officer, the Secretary of the Senate called the roll and the following Senators answered to their names:

Adams	Carlton	Getzen	Morgan
Barber	Carraway	Hair	Neblett
Beall	Clarke	Hodges	Pearce
Belser	Connor	Houghton	Pope
Bishop	Davis	Johns	Rawls
Boyd	Dickinson	Johnson	Shands
Brackin	Eaton	Kelly	Stenstrom
Branch	Edwards	Kickliter	Stratton
Cabot	Gautier	Knight	

—35.

A quorum present.

CHIEF JUSTICE TERRELL: The Sergeant-At-Arms will make the proclamation.

THE SERGEANT-AT-ARMS: Hear ye! Hear ye! Hear ye!

All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the State of Florida is sitting for the trial of Article of Impeachment exhibited by the House of Representatives against the Honorable George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida.

CHIEF JUSTICE TERRELL: Senator Neblett will pray.

SENATOR NEBLETT: Hear our prayer, O Lord, Almighty God, Creator of the Universe. Thou hast established the Supreme order whereby the stars move in the orbits appointed, whereby time and space are bent to Thy will. Thou hast opened our eyes to a portion of Thy Power, to disclose to Thy children, above all these mysteries, the ordered prophecies of the supreme natural law, wherein Thou art the Everlasting Judge, and to Thy earthly children Thou hast given commandments and prophetic utterances for our guidance while in mortal flesh.

Thou hast raised man above the animals and given him the awful power of choice. We have tasted of the tree of the knowledge of good and evil and, like Father Adam, the weight of decision is heavy on our heads.

God of Justice, God of Mercy, give us light, give us understanding. Hear our prayer, O God. Bless Thy children here assembled.

This we ask in the name of our Lord and Saviour, Jesus Christ.

Amen.

By unanimous consent, the reading of the Journal of the

proceedings of the Senate, sitting as a Court of Impeachment, for Monday, July 29, 1957, was dispensed with.

The Senate daily Journal of Monday, July 29, 1957, was corrected and as corrected was approved.

CHIEF JUSTICE TERRELL: Counsel will please proceed.

MR. HUNT: I have a few more questions, Mr. Musselman. Whereupon,

DANIEL NEAL HELLER,

a witness previously sworn and who previously testified, was recalled to the stand, was further examined, and testified further as follows:

FURTHER CROSS EXAMINATION

BY MR. HUNT:

Q Mr. Heller, with respect to Lester Hart, of Hart's Galleries, the person from whom the furniture was purchased in the Dowling case and to whom the furniture was sold in the Stengel case, have you seen Mr. Hart here in Tallahassee?

A Yes sir, I did see him.

Q Is it your understanding that he was subpoenaed by the Prosecution?

A Yes, sir. He so told me.

Q Do you know whether or not he has been excused?

A He told me that he had been excused, after coming up here.

Q Now, I believe you testified with respect to the painter, Mr. Sokolow - - that you had used him on two jobs of your own, one I believe in 1954 and perhaps the other in '55, involving both your home and your office. Is that correct?

A That is correct, sir.

Q Did you pay Mr. Sokolow for those jobs by your own personal check?

A I did, sir.

Q I hand to the witness and ask him to identify six cancelled checks, apparently bearing his signature, payable to the order of Herman Sokolow. Will you give the dates and amounts of these checks, each of these checks?

A There is a check dated November 27, 1954, for \$100.00, marked "On account." There is a check marked 29 December, '54, for \$300.00. There is a check dated 2 December, '54 for \$250.00. There is a check dated 7 January, '55, for \$400.00. There is a check dated January 15, '55, marked "Final payment on 460 South Shore Drive. Paid in full.", in the amount of \$161.98. Then there is a check of \$500.00 dated 28 February, 1955, which says "Payment on account of painting work, new office, Ainsley Building."

Those are all drawn on my personal account in checks consecutively numbered on the Pan American Bank of Miami.

MR. HUNT: We ask that these six checks be marked for identification.

MR. MUSSELMAN: No objection. Are you offering those in evidence?

MR. HUNT: I can't offer them in evidence yet. I offer them for identification and ask that they be marked.

(Whereupon said six cancelled checks were marked for identification as Respondent's Exhibit 2)

BY MR. HUNT:

Q Mr. Heller, did you, in June of 1956, request Sidney Wasserman & Company, Certified Public Accountants, to make an inventory of Florida assets which came under the jurisdiction of yourself and Judge Prunty, as curators for Jewell A. Dowling and Ina I. Dowling?

A Yes sir, I did.

Q Was an audit made of those assets which had their situs in Florida?

A Yes sir, they were.

Q I ask you to examine a report, on the stationery of Sidney Wasserman & Company, Certified Public Accountants, 420 Lincoln Road, Miami Beach, June 22, 1956 - - and I believe it is addressed to me, because I requested it. Is that correct?

A Yes, Judge. I remember seeing this and receiving it.

Q Will you state briefly, as the accountant does, what the inventory of assets is there?

A Cash by transfer from Julius J. Perlmutter, temporary receiver, \$11,050.99.

Guest house, Bay Drive, Miami Beach, Florida, \$29,500.

Residence, Bay Drive, Miami Beach, Florida. The value used here is an average of the two appraisals of Mr. Bennett and Mr. McCune, which were \$3,000 apart, \$58,500.

Fee, Lincoln Road, \$277,500. The values used here is an average of the two appraisals of Mr. Bennett and Mr. McCune, which were \$5,000 apart.

Boats, valued at sale price, \$7,250.

Lessee's interest in 99-year lease, Lincoln Road property, valued at sale price, \$127,500.

Assets of Ina Dowling, \$326,549.07, valued at figures listed in report of Forrest S. Emerich, temporary conservator, prepared for probate Court at Dedham, Massachusetts.

Rents collected from tenants during period of curatorship, \$26,686.20.

Oldsmobile, at sale price, \$450.

Rent collected from 99-year lease made on Lincoln Road property, \$52,500.

Store rent collected for estate of Jewell Alvin Dowling, deceased, \$3,500.

Dividends collected directly or received from Massachusetts conservator for Ina I. Dowling, \$18,685.48.

Total, \$939,671.74.

Q Is that the end of it?

A Yes sir.

Q What is the concluding paragraph?

A "I wish to point out that the assets of Ina I. Dowling, consisting largely of personal property, were included in total because the court order appointing the curators gave them possession of all the assets of Ina I. Dowling. The curators appeared in the Massachusetts Court.

"Yours truly

"Sidney Wasserman & Company,

"Certified Public Accountants."

MR. HUNT: We would like to offer this report for identification, Your Honor, and ask that it be marked.

MR. MUSSELMAN: No objection.

(Whereupon said Accountant's report was marked for identification as Respondent's Exhibit 3).

BY MR. HUNT:

Q Mr. Heller, I hand you what appears to be a photostatic copy, consisting of some six pages, and ask you to state to the Senate what it represents?

A This, sir, is a true copy of the progress docket of the estates of Jewell and Ina Dowling, kept in the office of the Clerk of the Circuit Court in the Eleventh Judicial Circuit. It has one, two, three, four - - it has five pages and it has several hundred entries - - I don't know how many. I think that the total here is approximately two hundred and forty-one entries.

MR. HUNT: We offer this for identification, if the Court please.

MR. MUSSELMAN: No objection.

(Whereupon said photostatic copy of progress docket was marked for identification as Respondent's Exhibit 4).

BY MR. HUNT:

Q Mr. Heller, I will now ask you to state whether or not you ever contributed any gifts or favors to Judge Holt?

A I have not, sir.

Q Did you, during his 1954 campaign for reelection, make a contribution to Judge Holt's campaign fund?

A I did, and several other Circuit Judges at the same time.

Q I only asked you about Judge Holt.

A Yes sir.

Q Do you know that amount?

A I don't have the check, but my memory is that it was \$100.

Q Now, what other Circuit Judges did you likewise contribute to in that campaign?

A It was Judge Marshall Wiseheart and to Judge Stanley Milledge.

Q During the same campaign?

A That's right, in 1954, yes sir.

Q Do you recall the amounts of those contributions?

A I think it was \$100 to Judge Holt, \$50 to Judge Wiseheart and \$50 to Judge Milledge, and I think there was a smaller contribution to Judge Nathan, but I just don't recall that.

Q Do you recall who ran against Judge Holt?

A Yes, a lawyer named Michael Pelle.

Q P-e-l-l-e?

A Yes sir.

Q Do you know whether or not Mr. Pelle was a member of the Board of Directors of the American Civil Liberties Union at the time?

A I believe that he was.

Q I hand you what appears to be a photostat of a letter written by the Miami Chapter of the American Civil Liberties Union and ask you to state whether or not you can identify it as such and find Mr. Pelle's name on it?

MR. BEASLEY: Now, if the Court please we object to that. It is absolutely immaterial and it is not admissible in evidence. There has never been any stipulation that such evidence should be admitted in the Senate. Now, we have been extremely liberal in allowing Judge Hunt to offer evidence that we think is immaterial, but that is so immaterial that we object to it, and we don't think that it has any place in this trial.

MR. HUNT: Your Honor please, I believe that one of the issues which is yet to be brought out has to do with the aspects of a political campaign, who the candidates were and what the possible issues were, as they may bear upon this

trial; and instead of having witnesses come back up here from Miami, if it is permitted, while this witness is on the stand, under Cross Examination, and knows something about these things, I would like an opportunity to bring it out.

MR. BEASLEY: Now, in the first place, Your Honor, that is not in cross of anything that we asked the witness. It is inadmissible in the first place, and we object to it.

CHIEF JUSTICE TERRELL: I think it is inadmissible on cross examination, Mr. Hunt.

MR. HUNT: I yield to the ruling of the Chair. I will ask the witness if he can state to the Senate what issues were posed by Judge Holt's opponent during his campaign in 1954.

THE WITNESS: The subject of --

MR. BEASLEY: Now, just a minute. We object to that on the ground that it is immaterial and that it is not in cross.

CHIEF JUSTICE TERRELL: Objection sustained.

MR. HUNT: Yes sir.

BY MR. HUNT:

Q I will ask the witness to state whether or not he knows Mr. S. D. Weissbuch?

A Yes sir, I've met him.

Q Do you know whether or not he was specially employed counsel for the early 1956 Grand Jury which first criticized Judge Holt?

A Yes sir, he was.

Q Do you know whether or not Mr. Weissbuch is also a member of the American Civil Liberties Union?

A He is.

MR. BEASLEY: Now, just a minute. We object to that, if Your Honor please, on the ground that is not in cross and has nothing to do with this case. We have not examined him at all on Mr. Weissbuch.

CHIEF JUSTICE TERRELL: What do these gentlemen's connection with the American Civil Liberties Union have to do with this case? I can't see that it has any relevancy here.

MR. HUNT: Your Honor please, there is a great deal to this case that has not appeared on the surface of the State's presentation of it, which will be made to appear and which will be connected up before this trial is over. I'm only trying to shorten the trial while we have a witness on the stand who has knowledge of some of these matters.

I will, however, yield to the ruling of the Chair on the point.

CHIEF JUSTICE TERRELL: Objection sustained.

MR. HUNT: Your Honor please, we would like about five minutes to confer among counsel for the Respondent at this point.

CHIEF JUSTICE TERRELL: The Court will be at ease for about five minutes.

Whereupon, beginning at 9:50 a.m., there was a brief recess.

MR. HUNT: Is Your Honor ready?

CHIEF JUSTICE TERRELL: Yes, sir. The Chair declares a quorum present and counsel will proceed.

MR. HUNT: I have one more question, if Your Honor please.

CHIEF JUSTICE TERRELL: Order in Court.

BY MR. HUNT:

Q Mr. Heller, one more question. Referring to this Waserman audit report it says, "Fee, Lincoln Road, \$277,500."

That doesn't mean some attorney's or curator's fee, does it?

A No sir.

Q That means the fee simple title?

A Yes sir.

Q To that property?

A Yes sir.

Q Appraised at \$277,500?

A That is correct, sir.

Q Can you state who led the Democratic ticket in Dade County in 1954?

MR. BEASLEY: Now, if the Court please, we object to that. That is absolutely immaterial and has nothing to do with this case.

CHIEF JUSTICE TERRELL: Objection sustained.

MR. HUNT: No further questions.

MR. MUSSELMAN: Mr. Chief Justice, at this time we would like to move to strike all questions and answers on which objections on the part of the prosecution were sustained. We would like to strike that from the record.

CHIEF JUSTICE TERRELL: Well, if the objection is sustained that eliminates consideration of it.

MR. MUSSELMAN: I think there were some questions that were answered before objections were interposed, and we would like to strike those answers from the record, so that they may not be found in the record.

CHIEF JUSTICE TERRELL: Do you just make that as a suggestion?

MR. MUSSELMAN: No sir. I would like to move to strike the answers of the witness relative to questions in regard to Judge Holt's opponents in any elections, and to Mr. Weissbuch.

CHIEF JUSTICE TERRELL: I will let it stand for the present. I will consider it, though, and make a ruling on it later.

MR. HUNT: May I have one more question, Your Honor, please?

CHIEF JUSTICE TERRELL: Yes.

BY MR. HUNT:

Q Mr. Heller, I hand you what appears to be a certificate of the Supervisor of Registration for Dade County, Florida, and, without referring to its contents, can you state whether or not it is a genuine certificate of the Supervisor of Registrations?

MR. BEASLEY: Now, we object to that, on the ground that he is not the proper person to identify it, to certify to it and, second, that it is immaterial and that it has not been shown that it can possibly be connected up with this case.

MR. HUNT: I only wish to put it in for identification.

MR. BEASLEY: We object to it.

MR. HUNT: And we will connect it up later.

CHIEF JUSTICE TERRELL: What is the pertinency of the certificate?

MR. HUNT: It is showing the names of all candidates in 1954 and the total vote results as to each candidate in 1954. It includes a large number of Circuit Judges, State officers and smaller County officers.

MR. BEASLEY: We object to it, if Your Honor please. He is trying to do indirectly what the Court has refused to let him do directly a few minutes ago, and it can't possibly have anything to do with this case, and it serves no purpose except to clutter up the record.

CHIEF JUSTICE TERRELL: The objection is overruled.

MR. HUNT: It may be offered for identification?

CHIEF JUSTICE TERRELL: You may offer it for identification.

(Whereupon said certificate of Supervisor of Registration was marked for identification as Respondent's Exhibit 5).

MR. HUNT: No further questions.

RE-DIRECT EXAMINATION

BY MR. MUSSELMAN:

Q Mr. Heller, yesterday you were exhibiting a number of pictures taken of the Dowling home both before it was painted and refurbished, and afterwards. Who prepared those pictures, sir?

A There is a stamp of the photographer on the back of some of them. I think you have that there.

Q Do you mind telling us how much those pictures cost to prepare?

A You have my ledger book, and if you will refer to that it will tell you exactly the check number and amount. I don't have my ledger book, and you do.

Q Did you give the ledger book to me, Mr. Heller?

A I gave the ledger book, as I told you, to previous investigators.

Q That was before The Florida Bar. Is that not correct?

A That is correct; I was informed by you that you had access to that.

Q Do you recall how much those pictures cost?

A No sir, I have no independent recollection.

Q Did you pay the cost of preparing those pictures?

A I have no independent recollection.

Q Do you recall whether it came out of the estate funds or out of your private funds?

A I have no independent recollection.

Q On your cross examination, Mr. Heller, you were discussing the fact that on your award of March 9, 1955, which is shown by Entry Number 388 of the Court files - -

A Yes sir.

Q Your petition is shown as Entry Number 380?

A Yes sir.

Q On cross examination you were discussing the fact that there was no broker involved and that if there had been a certain charge would have been assessed, and that there was no attorney involved, and that if there were there would also have been a charge assessed. Am I correct in stating that you arrived at a total of \$22,000 which you saved for the estate?

A Approximately \$22,000, yes sir.

Q What was the amount, the total amount, of the award for both you and Judge Prunty on March 9th?

A \$30,000.

Q And you had no broker and you had no attorney employed. Is that correct?

A On either proposition. That is correct, sir.

Q You testified on cross examination relative to a contempt citation of a Mrs. Bickford?

A Yes sir.

Q I believe it is reflected in Entry Number 237 and Entry 244?

A Those are some of the Entries. There are at least five or six Entries on that subject.

Q Do you find the Entry declaring her in contempt of Court?

A What is the number on that one?

Q I don't have the number. The order purging her is Entry 369, on February 9, 1955, but I do not have the order declaring her in contempt. Do you recall from memory what the sentence of contempt was by the Court?

A I have no recollection of that.

Q How old was Mrs. Bickford? What was her age?

A I don't recall, sir.

Q How old did she appear to be? Did you see her?

A Yes sir, I saw her.

Q How old did she appear to be, to you?

A I would express no opinion on the age of a lady.

Q Was she an elderly person or was she a young person?

A She appeared to me to be a woman of middle age.

Q Would you classify that in the fifties or sixties?

A As I have told you, sir, I am unable to give you her age.

Q Now, what does your petition reflect that she is being cited for contempt for. If you cannot find the order can you refer to the petition?

A The petition, sir, does not cite her for contempt. The petition merely asked the Court to have a hearing.

Q That is correct.

A What is the number that you're referring to?

Q 237.

A Yes sir, I find the petition here, 237.

Q What are the grounds to ask the Court to have her before the Court?

A This petition was signed by Judge Prunty in my absence. I was in Massachusetts. Therefore, based on the petition alone, it said that the said Bickford had been for two days in Florida and is residing at Mrs. Dowling's house; that the said Bickford is familiar with certain securities owned by Mrs. Dowling; that the said Bickford is now attempting to have Mrs. Dowling make some disposition of her securities and business interests, the exact nature of which is unknown to the curators.

Q I believe you testified yesterday that it was because she was having some petitions signed, which you knew could be signed by anyone. Is that correct - - or to have her sign petitions designating anyone? I believe you testified to that fact.

A I don't understand your question.

Q She was having some papers signed in behalf of some attorney in Boston, Massachusetts. Is that correct?

A That was later determined, later discovered - - weeks later - - some time after.

Q Was that one of the grounds for the contempt order that ultimately was issued?

A No sir, I don't - - if you will please let me know where the contempt order is - -

Q I don't know. I was going to ask you to find it for me.

A I would like to make it clear, too, that at the time these files were kept in the Clerk's Office by the curators they were in perfect chronological order, and they are now several months out of chronological order, and that is why it is so difficult to find some things.

Q I understand.

MR. MUSSELMAN: Does counsel for the Respondent have the number of that order, so we can find that?

MR. HUNT: I have the date and the place of record, if that would help. January 10th is the order to produce Bickford. A hearing was held on January 11, and there was a formal order releasing Bickford, which reached the Clerk's office on the 9th. I have no other order.

BY MR. MUSSELMAN:

Q Have you seen this order in the file during the time you acted as curator?

A Yes sir, and the other exhibits, the appraisal reports, and so forth, which seem now to be missing, which are not here.

Q Isn't it true also, as you testified yesterday on cross examination, that you also had Mrs. Dowling sign a paper designating you and Mr. Prunty as temporary conservators, or some other office, in the Massachusetts Court?

A This paper which was signed had no legal effect.

MR. HUNT: Turn around, Mr. Heller. We can't hear you.

THE WITNESS: I'm sorry.

MR. HUNT: When you're just floating around that way.

A I say that the petition which was signed did not appoint anyone. It was a petition which requested something, and the point which I made to you was that when I appeared again on the date of January 8th or 9th in the Massachusetts Court I represented to that Judge that if, in fact, Mr. Meserve, the attorney for Mr. Emory, had in fact a petition with Mrs. Dowling's signature, I said to the Court that in my opinion she did not know what she had signed, and I said, "I'll prove it to you, Judge, by returning to Miami and asking her to sign another identical petition, with the exception that instead of naming A and B or instead of requesting A and B it will request C and D," and that, in fact, she did do. She had first signed the first petition asking that A and B be appointed, then signed a later petition asking that C and D be appointed. I want also to say that in the petition which Judge Prunty and I filed, we requested three, an alternative of three -- any suitable Massachusetts residents, the former Governor or Judge Prunty and myself.

Q That petition that you had signed was sent off to Massachusetts -- is that correct -- to the Court?

A I believe it was.

Q Were you present at the hearing when Mrs. Bickford was interrogated as to her actions here in Florida?

A Yes, sir, I was, and there was, to my memory, a type-written stenographic record of that. Do you have that here?

Q Look in the file and see if you can find that.

(The witness searched through the files).

Q Well, we are losing time, Mr. Heller. Was she adjudged in contempt?

A That exhibit and testimony is missing, too, yet it is my memory that she was adjudged to be in contempt of Court.

Q Was she imprisoned for this contempt, or ordered imprisoned?

A Mr. Mershon phoned me to inform me that he had appeared before Judge Holt within a few hours thereafter and that he was having her released from the order.

Q My original question was whether she was adjudged in contempt of Court and imprisoned as a result of that contempt of Court. Is that correct?

A I have no personal knowledge of her being imprisoned.

Q Was she ordered imprisoned there in your presence in the Courtroom?

A If you would give me the order and the transcript of testimony, which was placed by us in the Court file, I can honestly, fully and fairly answer your question. Without it I cannot.

Q I understand that, sir; but is it your memory that she was adjudged in contempt and imprisoned?

A I have no knowledge that she was ever imprisoned. I have knowledge that she was found to be in contempt of Court, because I remember the phone call from Mr. Mershon to me.

Q Did the Court order her imprisoned in your presence?

A Without the transcript of the testimony, sir, I do not have a memory, an independent memory, of it.

Q I believe, sir, that there was a hearing before the Court, as will be reflected from the file -- I can't find the number -- regarding the opening of the sealed bids for the sale or the assignment of the 99-year lease. Is that correct?

A I think so.

Q You were present at the opening of the bids on the 26th day of January, 1955. Is that correct?

A Do you have a page number or a transcript of testimony, please?

Q I believe you testified earlier that you were present at that time?

A Well, if I did so testify, that is correct.

MR. HUNT: May I ask the date of the order that you are leading up to, Mr. Musselman, so we can check.

MR. MUSSELMAN: There is some discrepancy there as to date, Judge.

BY MR. MUSSELMAN:

Q I would like for you to turn to Entry Number 247, please, and tell me what you find there?

A I find a telegram which is filed in the Court file.

Q Would you read the telegram to the Court, please?

A Yes sir. This is dated January 26, 1955. It is marked "paid" in Miami, Florida, addressed to Marion E. Sibley, Esq., care of Sibley and Davis, 605 Lincoln Road, Miami Beach, Florida.

"You are hereby notified that the undersigned, as curators for Jewell Alvin Dowling, will at 2:00 o'clock p.m. on Wednesday, January 26, 1955, present before the Circuit Court of Dade County, Florida, the Honorable George E. Holt, in his Chambers on the fourth floor at the County Court House, Miami, a curators' petition for instruction to sell the ward's interest in that certain 99-year-lease on property described as Lots 5 and 6, Block 50, Second Commercial Subdivision, recorded in Plat Book 6, Page 33, of the public records of Dade County, Florida.

"All bids for the above must be reduced to writing, accompanied with earnest money and in the hands of the undersigned before 11:00 o'clock a.m. on the date aforesaid.

"No auction will be held at the hearing.

"John W. Prunty and Daniel Neal Heller

"Curators for Jewell Alvin Dowling."

And a notation, "before me," initialed "GEH" -- that's Judge Holt.

Q Was there a hearing held pursuant to this notice by telegram?

A There was a hearing held.

Q And you were present at that hearing?

A Yes sir.

Q What occurred at that hearing relative to the opening of the bids and what was the highest bid received at that time?

A There are missing from this file the eleven exhibits which we attached to our petition, and I would like to have those, please, to tell you the answer to that question.

Q I believe you testified as to those items yesterday or on Friday. Isn't that correct?

A If you want me to testify from memory, I shall, but I would have a more exact knowledge if I had the actual Court records before me.

Q I understand that, Mr. Heller. Will you please testify what occurred that day, to the best of your memory?

A Yes sir. There is one paper here --

MR. HUNT: Your Honor please, may I inquire of the

House Managers how much time it would take for them to make a more exacting search of their own possessions and determine what portions of the Dowling official Court file, which have to go back to Dade County anyhow, they still have out of the files, and which would better reflect what happened down there when this case was being tried. It is obvious that a number of these things, in thumbing through them and photographing them and handling them, have been misplaced.

MR. BEASLEY: May it please the Court, I would like to say in response to what counsel for the Respondent had to say that the Managers prefer to conduct their case in their own way and allow him to treat his case the same way. That is a similar statement to the one that you made to the Managers the other day when we made a suggestion to him.

CHIEF JUSTICE TERRELL: Answer the question, Mr. Heller.

THE WITNESS: I don't recall the question.

MR. MUSSELMAN: May we have it read, please? Mr. Lee, will you read the question?

THE REPORTER (Reading): "I understand that, Mr. Heller. Will you please testify what occurred that day, to the best of your memory?"

A There was filed before Judge Holt on January 26, 1955, a petition for instructions by Judge Prunty and by myself, as curators for Mr. Dowling. We recited that Mr. Dowling owned the lessor's interest in a certain 99-year lease. We recited that he had to pay, as a tenant under that lease, \$9,000 per year rent to his landlord and had to pay taxes and insurance and assessments, and so forth. We recited that Mr. Dowling had three tenants, one of whom was David Allen, and that this tenant had a lease which was negotiated in the year 1950, four years before the curatorship, for twenty-five years. We went on to recite that, in our opinion, the said lease was producing \$10,000 per year less than the fair market value. We went on to recite that a second of the tenants of the ward was Milgrim's, who had a lease, paying only \$10,000 per year, which was gross rent, so that Mr. Dowling had to pay taxes and insurance. In our opinion, this, too, was less than fair market value.

In addition to that, there was a tenant named Moseley's, who was paying only \$4,000 per year, and this, too, in our opinion, was less than the fair market value.

However, this tenant, Moseley, claimed an additional ten year lease, together with a ten year option, by virtue of a lease allegedly given to them by Mr. Dowling on April 8, 1953, at a rental of \$12,000, which is \$2,000 less than the two stores, Milgrim and Moseley, and which is eight or ten thousand dollars less than the market value as it is.

Further, this lease places Moseley in possession of the Milgrim store one year prior to the date that the Milgrim lease expires.

There is attached to this petition Exhibits A, B, C, D and E, which were, first, the 99-year lease which Mr. Dowling had an interest in, the David Allen lease, the Moseley lease, the Milgrim lease and, lastly, the lease which Moseley claimed Mr. Dowling gave him in 1953.

Q Was all this recited at the hearing, Mr. Heller? That is what I am inquiring about.

A Yes, this was recited at the hearing. Then the curators had obtained the services of Bennett and McCune, they attached their appraisal reports, which are missing also, which indicated that McCune said the property was worth eighty-two-five, I believe, and Bennett said it was worth \$100,000, less real estate brokerage and discount for cash.

There was attached, as Curators' Exhibit G, this special accountant's report, dated January 20th, which shows to the Court that there was only \$300 reserve left under the Florida assets from all expected potential Florida income.

This was the basis or predicate for our representation unto the Court that the Florida income could not properly and adequately support Mr. and Mrs. Dowling if they lived in Florida for twelve months during the year.

It went on to recite that the annual expected income was \$53,000, the greatest possible income.

Q Perhaps I could speed it up some by simply asking you some very short questions. What was the highest bid that was received at that time?

A I don't have a copy of the bids, although they were filed in the Court files. It says that the offers ranged from \$72,100 up to the sum of \$95,000, and that some of the offers required a real estate broker's commission so that the highest net offer was \$90,500.

Q Did Mr. Sibley appear at that hearing?

A Yes sir, he did, and in Entry number 250 in the Court file, which I was unable to locate the other day, we find this typewritten offer, but left blank was the amount of the offer, and whether or not the offer was net or gross; and after the Curators, for the first time, announced to the Court and to half a dozen other bidders who were present, what the highest offer had been, then Miss Moseley, who was making this offer, filled in or someone filled in for her this amount of \$91,500 and the word "net." Everything else on the paper is typewritten. It is typewritten in the form of the case, the County and the Circuit and the style of the case and the Court Number, and so forth; but the amount of the bid is blank, and that was filled in at the sale.

Q Now, what did the Court do as a result of the testimony taken before him and what decision was made by the Court at that time?

A After the other bidders objected to Miss Moseley making this late bid the Judge rejected all the bids, set an upset price at \$90,500, and ordered the property re-advertised and ordered that sealed bids be received.

Q What position did you take as to the Court's decision?

A I carried out the instructions of the Court to the letter of the law.

Q At the hearing did you resist the rebidding of the property?

A I would like to see the transcript of testimony, and I will tell you exactly what I said.

Q The original transcript apparently is not there. I have part of it.

(Mr. Musselman handed a document to the witness).

A (After looking at document) This paper, which I guess is not an official transcript --

Q No, it is not.

A This says that the hearing was had before Judge Holt on Wednesday, January 26, 1955, at 2:00 o'clock; that there were present myself and Judge Prunty; that the lawyers present were Shutts, Bowen, Simmons, Prevatt and Julian, by Mr. J. B. Simmons; Sibley and Davis, Esqs., by Marion E. Sibley, on behalf of Moseley, and Julius J. Perlmutter. I see written in pencil here some names. I guess these were the other bidders present.

Q Now, on Page nineteen of this purported transcript of testimony, I will ask you to read your statement at the bottom of the page, where it refers to you. I think that this will answer my question.

A Sir, this is a short transcript of twenty-one pages. I would not want to read my statement out of context of the entire hearing. I would like to inform the Senate of the other eighteen pages. To read a statement, you might take it out of context, and I don't think that would be fair and I don't think you would want to do that.

Q Mr. Heller, I think our question was whether or not you had resisted the re-bidding of the property -- the position you assumed before the Court at that time. Now, I would like to have you read this particular statement of yours, even though it is out of context.

A I will not read this one statement.

Q Now, turn to the following page, please, sir, and see if there is another statement by you. Do you see that?

A Yes sir.

Q Will you please read that?

A My same position -- I would like to read to the Senate everything that has occurred.

MR. MUSSELMAN: I would like to request the Court to instruct the witness to read these particular statements.

CHIEF JUSTICE TERRELL: Read both the statements, Mr. Heller.

THE WITNESS: At Page nineteen --

CHIEF JUSTICE TERRELL: If I understand you, one of them qualifies the other. I think it would be only fair to read both of them.

THE WITNESS: No sir. The point I was making, Mr. Chief Justice, was that skipping eighteen pages of the representations and history which was presented by me and by Judge Prunty to the Court, and to skip the eighteen pages and then at Page nineteen to pick out a statement, one statement only, which I make, is manifestly unfair, in my opinion, because it fails to report the --

CHIEF JUSTICE TERRELL: Does the content of those eighteen pages bear on the statement here that you are requested to read?

THE WITNESS: Sir?

CHIEF JUSTICE TERRELL: Does the content of those eighteen pages -- is it your position that they qualify the statement here that you are requested to read?

THE WITNESS: I don't quite understand you. I'm sorry. I find, for example, on Page Two, I made other statements, and Page Three and Page Four and Page Five and Six.

BY MR. MUSSELMAN:

Q Well, can you answer this question for me, Mr. Heller. I think we can relieve ourselves of this impasse. Did you request or make suggestions to the Court at that time that they should not re-bid it, that it would be unfair and, in addition to that, there was the matter of time, and so forth, and that you desired to go ahead and sell the property at that time?

A I reported to the Court that in my opinion it would be unfair to the other several bidders -- and there were, I believe, at least five offerors -- who had submitted earnest money and who had perhaps as far as two weeks before the date of the hearing, submitted offers.

Q Now, that was all that I asked, Mr. Heller. That was as simple as that. Would you now turn to Entry Number 375, the official --

A Yes sir, I have it.

Q First let me ask you, as a result of the re-bidding, instead of the \$90,500 offer that was rejected with all bids, the property apparently sold for \$127,500. Isn't that correct?

A That's correct, sir.

Q All right. Then refer to Entry 375.

A Yes sir.

Q What does that purport to be?

A It is Page five of a petition for instructions.

Q What does the final paragraph of that petition state?

A 8. Your petitioners would point out to the Court that in a lease sale and assignment of the leasehold interest of the wards, that they would receive ultimately, by the petitioners, for and on behalf of the ward, a sum of money almost \$30,000 greater than had been previously offered by virtue of the fact that the petitioners diligently advertised the property for sale and did accept sealed bids rather than permit open bidding, which would most probably have discouraged one bidder from over-bidding another some \$22,000.

Q (Handing document to witness) Mr. Heller, I hand you this report by Wasserman.

A Yes sir.

Q I believe it is reflected in that report that --

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: It has been suggested by several Members of the Senate that these files have been brought out both on direct and cross examination. If this is a matter of any additional file, it should have been brought out on direct, rather than re-direct, and we're just wondering if the State can't shorten the re-direct to some extent on that.

CHIEF JUSTICE TERRELL: Mr. Musselman, you have heard Senator Davis' question. Is it possible for you to contract this re-direct examination? Have you got any means by which you can do that?

MR. MUSSELMAN: We will conclude our re-direct at this time, Your Honor. I have no further questions to ask of the witness.

MR. HUNT: I have one question.

RE-CROSS EXAMINATION

BY MR. HUNT:

Q Mr. Heller, was your opposition to the attempt of Moseley and his attorney to obtain the property at the hearing before Judge Holt upon a bid which they submitted for the first time at that hearing -- was your opposition based on the ground that that would be most unfair to those who had complied with the previous order of the court and who, in good faith, had submitted earnest money and bids and were standing by to await the hearing before the Court?

A Yes sir.

Q Was it your feeling that a sneak bidder should not be permitted to come in at the hearing and walk off with the property, but that it would be better to re-advertise all over again, using the high bid as the upset price, which I think was what the eventual order says?

A Well, I felt that it was unfair to let a sneak bidder come in, but it was Judge Holt, rather than the curators, who decided that the property should be re-advertised.

Q I understand who decided it, but was that the predicate, the reason, for your objection?

A Right. I --

Q Unfairness?

A Unfairness to the bidders who had bid in good faith and had respected the integrity of the bids.

Q And did the Court take the top figure and fix it as the upset price and order the property re-advertised?

A Yes, by sealed bids.

MR. HUNT: No further questions.

MR. MUSSELMAN: I did have about one or two other questions, Your Honor, but I think under the directions of Senator Davis, I will not ask them.

CHIEF JUSTICE TERRELL: I have a question here -- two questions -- Mr. Heller. The first is:

"Ask him if Moseley was the same man that collected \$5,000 from the estate by order of the Court."

THE WITNESS: There is a Joseph Moseley. His wife is Priscilla Moseley. The check that was paid and the money that was loaned to Mr. Dowling was from Moseley's Detroit, Inc. The tenant of Mr. Dowling's was Moseley's Miami Beach, Inc.

CHIEF JUSTICE TERRELL: The second question:

"You testified that you spent better than \$50,000 on the house and furniture, and yet it was appraised by two real estate men at \$50,000. Did you offer the property for sale at this price or less?"

THE WITNESS: This, apparently, is an erroneous conclu-

sion, and if I made the error I apologize. There was only \$30,000 spent on the house. That means the painting, the landscaping and the building of the wing.

Now, the appraisers said it was worth \$60,000, unfurnished. Now, there has been included in that \$50,000 the \$6,000 Cadillac which, of course, would not have gone with the house, and the \$16,000 for furniture, which would not have gone with the house, so that the improvements to the real property were in the neighborhood of \$30,000. The appraisers, after the improvements, said that the house now improved was worth \$60,000.

CHIEF JUSTICE TERRELL: No further questions.

MR. MUSSELMAN: May it please the Court, with the permission of the Senate I would like to have in evidence the appeal from the Probate Court. I believe that file has been examined and we have discussed it, and I would like to have it in evidence if I may.

MR. HUNT: May I interpolate one question about the house?

CHIEF JUSTICE TERRELL: Yes.

BY MR. HUNT:

Q As I understand it, that house has never been sold?

A That house has never been sold.

Q Mrs. Dowling is still enjoying it?

A She is. She is not there at this moment. She is in Massachusetts.

MR. MUSSELMAN: I would like to offer the Probate File and also the Circuit Court file, showing the appeal, in evidence at this time, may it please the Court.

MR. HUNT: Does that include the transcript of testimony?

MR. MUSSELMAN: The whole thing.

MR. HUNT: No objection.

(Whereupon said Probate Court file, together with the Circuit Court file showing the appeal of said cause, was received in evidence as Managers' Exhibit 23).

SENATOR SHANDS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Shands?

SENATOR SHANDS: Can we have a recess for about ten minutes?

CHIEF JUSTICE TERRELL: Unless there is objection that is the order of the Court.

Whereupon, beginning at 10:40 a.m., at the order of the Chief Justice the Senate stood in recess for fifteen minutes.

CHIEF JUSTICE TERRELL: Order in Court. The Chair declares a quorum present.

Thereupon,

THOMAS ST. JOHN,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOPKINS:

Q Will you give us your name, please?

A Thomas St. John.

MR. HOPKINS: This will be testimony regarding Article I (f) 1.

Q Give us your name, please?

A Thomas St. John.

Q Where do you live, Mr. St. John?

A Do you want my address?

Q Please, and talk into the microphone.

A 8510 Northwest 31st Court, Miami, Florida.

Q By whom are you employed and in what position?

A I am a Policeman of the City of Miami, assigned to Radio Patrol.

Q Were you such a Policeman in the City of Miami in December of 1955?

A Yes sir.

Q Did you work on the date of December 20, 1955?

A Yes sir, I did.

Q What shift did you work on that date?

A Three to eleven; 3:00 p.m. to 11:00 p.m.

Q After getting off from work at 11:00 p.m. where did you go?

A I went home, started home.

Q And what street in the City of Miami did you take to go home?

A I went out Northwest 2nd Avenue to 79th Street.

Q While going home on Northwest 2nd Avenue did you see an automobile that you later found was occupied by Judge George E. Holt?

A Yes sir, I did.

Q Explain, if you will, please, where you saw the automobile and what happened?

A Well, the first time I saw the automobile it was approximately about 39th Street, Northwest 39th Street, and 2nd Avenue. The car had stopped at 2nd Avenue on 39th Street, facing east. I was going north on 2nd Avenue. This car was sitting, with the horn blowing, and my first impression was that the horn was stuck, so I just proceeded on.

After I got about approximately six or seven blocks away I heard the horn again, coming up the street. I just kept on going, and after the car got up behind me I looked in my mirror and saw the car and I noticed it sounded like the same horn that I had seen at 39th Street, so I just kept watching the car, and as he come up he kept coming over to the yellow line and back again. I thought maybe the man was in a hurry to go to the hospital, or something, because as I first saw him I saw two heads and my first impression was that there were two people in the car; so I just more or less watched him to see what he was going to do, and he kept coming over as if he was trying to get around the stream of cars that was ahead of me. There was about three or four cars ahead of me.

When I got to approximately, I would say around 56th or 59th Street—somewhere up in that section—the car came around me. As he passed me I noticed that he had a dog in the car and he still had his horn blowing, and so I didn't know what the man was up to so I just started to get his tag number. I got part of it and that was all.

As I looked out of my mirror I saw this squad car coming, so I just stayed in the line of traffic and let the squad car get behind me—I mean get ahead of me—and as the squad car passed me I pulled out behind him.

Approximately—I would say I was approximately 60th Street—somewhere in that section. At around 62nd Street I saw a flash and the car swerved. My first impression there was that the car might have had a blow-out and that the flash was from the rim of the car as he swerved.

When I got up there I saw Officers Headley and Gschwind, and I saw two people in the street. I asked Officer Headley which way the car had gone, because I figured the car had hit something and left, so Officer Headley told me that the car was over by the building, so I went over to the car, left my car in the street and went over there and looked in, and I saw the man in there. He was breathing very heavily and he seemed to have been pinned in the car. It looked liked he was pinned behind the wheel. I tried to open the door and I couldn't open the door, so I just told Officer

Headley he had better call an ambulance and get the squad to get the man out of the car.

From then on—at the time I had written down what little bit of license I had gotten and I gave it to Officer Headley and told him that that was what I had got on it. Then I went out and more or less directed the traffic, took care of putting some flares out and making the road safe so that any other cars or anybody else wouldn't get hurt.

Q Now, at the time you were going north on Northwest 2nd Avenue and saw this car at 39th Street, can you describe just where the car was in connection with the intersection there?

A Will you please repeat that?

Q Just where was the automobile when you first saw it with the horn blowing?

A Well, he was stopped at the intersection on 39th Street, at the stop sign. There is a stop sign and he was stopped there, sitting there.

Q Would that put him on your left, as you went north on 2nd Avenue?

A Yes sir.

Q Was his horn blowing continuously at that time or intermittently?

A It was more or less blowing continuously and then it would blow intermittently. It was a combination of both, I would say.

Q Was the occupant of the car just sitting there blowing the horn?

A Well, the occupant of the car was sitting there. I couldn't say whether he was blowing the horn or not, because all I could see was him sitting there.

Q And the horn was blowing?

A Yes sir, that's right.

Q Did you continue north on 2nd Avenue?

A Yes sir, I did.

Q And this was the same car that overtook you as you were going north on 2nd Avenue, Northwest 2nd?

A Yes sir.

Q Approximately how many blocks had you gone from the place you first saw the car until the time it overtook you?

A By the time it overtook me?

Q When it overtook you and passed you.

A Let's see—I would say approximately seventeen or eighteen blocks.

Q Was there other traffic on the street at that time?

A Well, there were some cars ahead of me, yes sir. That's all I noticed. There might have been some others going south. I didn't pay much attention to that. I was more or less interested in him, because I was watching him to see what he was going to do, because I didn't want to take any chances.

Q In what method was the automobile being driven, the one that was being driven by Judge Holt?

A Well, the automobile, I noticed, was being driven kind of in an unusual fashion, but it was driven with—like the man knew just what he was doing. It was with more or less precision, as if he knew just what he was trying to do and what he was doing.

Q Was the horn blowing at that time?

A Yes sir, it was.

Q Was it blowing continuously or intermittently at that time?

A Well, it was just about the same it was before. It

was blowing and then it would stop then it would start again.

Q State whether or not the car was going back and across the center line of the street?

A Do I recall that?

Q Yes.

A Yes.

Q And you pulled aside to let this automobile pass you?

A I got over as far as I could to give him room so he could get by without having to go over too far.

Q Did anyone else pass other than the automobile being driven by Judge Holt?

A Yes sir, the squad car.

Q Was the squad car apparently chasing this particular foreign-made automobile that passed you?

A Yes, it appeared to be, although they didn't have their red light or siren on.

Q You mentioned something the other day about seeing some sparks or something. Is that correct?

A Yes sir.

Q Where was that?

A That was ahead of me at approximately 62nd Street. After I got there I knew just where it was. It was at 62nd Street, at the intersection.

Q That was the intersection of Northwest 2nd Avenue and 62nd Street. Is that right?

A Yes sir.

Q When you got to the scene of the intersection of 62nd and Northwest 2nd Avenue what did you find?

A Well, I saw the two people and Officer Headley and Officer Gschwind were attending to the two people on the street, and the motorcycle—I saw a motorcycle on the west side of the street, approximately, I would say, seventy-five feet north of 62nd Street, up by a telephone pole. Then Officer Headley told me where the car was, so that's why I went over to the car. I saw the man in the car and the dog. The dog was on the right side, down on the floor and the seat had folded up over him.

Q Now, you mentioned the fact, I believe, that when you first saw the car you thought that there were two people in it?

A I saw two heads, yes sir, so that was my first impression.

Q When did you realize that there was one man and a dog in the automobile?

A As he passed me.

Q You could tell that there was one man and a dog in the automobile at that time?

A Yes sir, because the dog was on the right side of the car, which was on my left. He would be on my left and he was on the right side.

Q Now, when you got to the scene of this collision where did you find this foreign-made automobile?

A Well, north of 62nd Street there were two buildings and more or less like an empty lot or an alleyway there. The car was up by the building on the north side—had run up to a dirt pile. I believe the dirt pile is what helped stop it there.

Q Now, did you ever see the red light go on, on the Patrol Car?

A Yes sir, I did.

Q When and where did it go on?

A Well, I would say that he was at 62nd Street when it went on. I was behind him. It was right in that intersection or close to the intersection of 62nd Street.

Q Was that approximately at the same time that you saw the sparks that you mentioned, from the collision?

A Yes sir, it was just about the same time—maybe a few seconds here or there.

Q Did you make a report to anyone regarding this accident?

A Yes sir. The next day I went into the Station. First of all, I didn't know that it was Judge Holt until the next morning, when my mother-in-law called my wife and told her and then my wife told me, and when I went to the Station the next day Captain Ford told me to make a report of it, which I turned over to him.

Q To go back to the scene of the accident a few minutes—when you went to this foreign-made car just what did you find?

A Well, I found a man more or less slumped over, like I say, and he looked to me like he might have been pinned in the car. He was breathing very heavily, more or less like he was having a hard time breathing, like a snoring. He was unconscious. I didn't try to move him because I couldn't get the car open and I didn't know how badly he was hurt. That was my first concern, was more or less taking care of him and getting him to the hospital and getting him taken care of.

Q Did you see the dog at that time?

A Yes sir. The dog was on the floor and the front seat had folded up over him. He was on the right side of the car, and he couldn't move either way, as the man was blocking him on the left and the seat was over him on the right and he couldn't get out.

Q Did you see anyone else injured there at the scene other than Judge Holt?

A Yes sir. After we got through up there I saw the girl and the fellow that were on the street.

Q You saw who on the street?

A There was a girl and a boy laying on the street, the ones that Officers Headley and Gschwind were attending to when I arrived.

Q Were they injured?

A Yes sir, they were.

Q Was either one of them unconscious at that time?

A The boy was unconscious, but I don't believe the girl was; but I didn't attend to those too much, as Officers Headley and Gschwind were taking care of them.

Q Did you see a motorcycle there?

A Yes sir. The motorcycle was on the west side of 2nd Avenue, north of 62nd Street, approximately seventy-five feet—fifty or seventy-five feet, I would say—up from the intersection, approximately.

Q Mr. St. John, I hand you a memorandum report purporting to be a report of the Police Department made by C. J. Gschwind and J. T. Headley, and ask you to look at it and tell me whether or not that is a report of the accident?

A You want me to look at the accident report?

Q Yes. Look at the memorandum first, if you will, then look at the accident report.

MR. HUNT: Your Honor please, I don't believe this witness could testify to the report filed by two other Officers. I think it is up to those Officers to identify the report that they filed, unless the Officer recognizes their handwriting and can verify it.

MR. HOPKINS: I will be glad to ask that question, Your Honor.

BY MR. HOPKINS:

Q Are those the signatures of the two Officers, Mr. Headley and Mr. Gschwind, on the report?

A I couldn't truthfully say it was, because I have actually never ridden with Officers Headley or Gschwind, to notice their signature too much.

Q Have you read this report before—seen it?

A I've read a copy that Officer Gschwind had.

Q Is this the copy that you have been furnished? In short, is that the report filed with the Police Department of the City of Miami, Florida?

A Well, this is similar to the report that Officer Gschwind showed me. Whether it is on file or not I could not say.

Q I now hand you a copy of the report itself and ask you whether or not that is a copy of the original that is on file with the Miami Police Department?

A Like I told you before, I never did actually see the report that was on file. The only report I saw was the report that Officer Gschwind had, similar to this—a photostatic copy.

Q Did you make a report to the Police Department as to the way the car was driven, that the man was either drunk or sick?

A No sir.

MR. HUNT: What's that?

MR. HOPKINS: Would you like for me to ask the question again?

MR. HUNT: I think counsel knows, Your Honor please, that that is a leading and prejudicial question, and I object to it.

CHIEF JUSTICE TERRELL: Ask the question again, Mr. Hopkins, please.

BY MR. HOPKINS:

Q Did you report to the Police Department that the man driving that car, in your opinion, was either drunk or sick?

MR. HUNT: That is clearly objectionable. It is a leading question. It is prejudicial to the defendant and it puts the answer directly in the witness' mouth.

CHIEF JUSTICE TERRELL: The objection is overruled.

BY MR. HOPKINS:

Q Would you answer the question, please?

A Did I make a report to the Police Department? Please repeat that.

Q I asked the question, if you had reported to the Police Department that, in your opinion, the man driving that car was either drunk or sick?

A I don't remember stating that to them, no sir. I wouldn't—it's been almost two years, and I would say that I didn't.

Q Did you tell the House Managers, including myself, that that was your opinion?

A That the man was sick or drunk?

Q Or drunk?

A I believe I did, yes sir.

Q Well, now, is that your opinion?

A He could have been sick, yes, sir—but could I explain that?

Q Go right ahead.

A The man could have been sick, but as far as the drunk goes, in my opinion the man—I have dealt with quite a few people that have driven when drunk, and the man drove the car in too good a manner than I would say who would have been actually drunk, where he was impaired, where his ability to drive was impaired.

Q Was he driving what you would call erratically?

A Well, we call it erratic when a man is not driving in—when he drives in an unusual manner.

Q Well, would you say this was erratic, then?

A Yes sir, I would.

MR. HOPKINS: If the Court please, we would like at this time to offer in evidence the map of the City of Miami, upon which there has been a stipulation already, and have it marked in evidence.

CHIEF JUSTICE TERRELL: Mr. Hopkins, is this that map that you had at the conference several days ago and which it was agreed would be offered in evidence?

MR. HOPKINS: That is correct.

(Whereupon said map was received in evidence as House Managers' Exhibit 24).

BY MR. HOPKINS:

Q Mr. St. John, will you stand up here just a minute, please, and find the street that you were going north on when you were going home?

(The map, House Managers' Exhibit 24, was spread over a desk, and Mr. Hopkins and the witness stood before it).

A Right here. This is the street that I was going north on.

Q Will you find the intersection of Northwest 2nd Avenue and 39th Street where you first saw the car?

A (Indicating) Right here.

Q Will you please take this pencil and put a mark where you first saw the automobile?

A This is approximately where I first saw it.

CHIEF JUSTICE TERRELL: Speak a little louder, Mr. Witness.

A (Continuing) I say this is approximately where I first saw it.

Q Just put a mark on it, so we will know.

(The witness marked upon the map).

Q Now, will you also put a mark at the scene of the accident? Mark the intersection of the scene of the accident.

(The witness marked upon the map).

MR. HOPKINS: Thank you. Have a seat. You may inquire of this witness.

CROSS EXAMINATION

BY MR. HUNT:

Q Mr. St. John, do you have any personal acquaintance with Judge Holt?

A No sir, I never had any personal acquaintance with Judge Holt.

Q Now, I wish to be as brief as possible, but as you went north on Northwest 2nd Avenue you noticed Judge Holt, in his little car, stopped, headed east, at Northwest 39th Street. Is that correct?

A Approximately 39th Street, yes sir.

Q It could have been 38th or one of the others in that vicinity?

A It was right in that vicinity, yes.

Q Was he at a stop sign?

A Yes sir. There was a pedestal stop sign on those streets.

Q And his car had stopped at the stop sign?

A Yes sir, he was stopped. He was sitting there.

Q And the horn was blowing as you went by?

A Yes sir.

Q He later on, some seventeen or eighteen blocks north, roughly, caught up with you, and you again heard the horn. Is that correct?

A Yes sir.

Q And you saw him in your rear-view mirror going back and across the yellow line, and then back into the lane of northbound traffic?

A Yes sir.

Q Was that not a single lane of traffic, on that highway, northbound?

A Yes sir. There's one lane north and one lane south.

Q What is the width of that road?

A Oh, I would say approximately—2nd Avenue is approximately thirty feet, I would say.

Q Thirty feet?

A I would say so, approximately.

Q Is that correct?

A Yes.

Q Then each lane only had fifteen feet. Is that correct?

A Yes sir.

Q I will ask you to state whether or not a person driving with complete normalcy, with traffic ahead of him bound in the same direction, in order to take a look to the north to determine whether or not it would be safe to attempt to pass a northbound automobile, would he not have had to veer across the yellow line in order to see to the north and check the traffic, so to speak?

A According to the way the cars were traveling at that time he would have, yes sir.

Q Is there anything unusual, Mr. St. John, about a car in traffic, going across a single lane yellow line to check the state of the traffic further on up and then finding it unsafe to pass and veering back into the same lane of traffic and waiting for the proper opportunity to pass? Is there anything unusual about that?

A No sir, no sir.

Q Well, is that what Judge Holt was doing as you noticed him in your rear-view mirror?

A That's what it appeared that he could have been doing, yes.

Q Did he go across the left yellow line and then come back?

A Yes sir.

Q Into the regular lane of traffic?

A Yes.

Q And how many times would you say he did that before he went on ahead of you?

A Oh, I couldn't say how many times he did it. Actually, I would say — oh, approximately half a dozen.

Q At that time there was some southbound traffic, was there?

A I don't remember whether there was southbound traffic or not, because I was more or less interested in what he was going to do.

Q Well, in any event he finally, with clearance, went on around you and how many cars in front of you?

A Well, I think there was approximately four cars ahead of me.

Q Now, in order to accomplish that passing, he necessarily had to utilize the west side of the highway, didn't he?

A Yes sir.

Q So will you state whether or not there was anything other than the speeding that was erratic or wobbly or unusual about the path of his car as it went northward after it passed you?

A No sir, I couldn't say there was, because, like I said, I was going to go out myself until I saw the squad car, and then I let them get by first, because I figured that they were after him.

Q Well, when you turned out and passed the other cars did you not have to go across the yellow line and use the other side of the street?

A Yes sir.

Q I will ask you to state, when you were around the proximity of Judge Holt and the Jaguar automobile, whether you saw any evidence of intoxicating liquor?

A Would you define that "proximity" a little closer? I don't get what you mean.

Q How close did you get to the Jaguar and Judge Holt?

A Well, I got to the car. I actually didn't get in the car. As close as I could get was right on the outside, looking in.

Q Did you detect any odor of alcohol?

A No sir, I didn't.

Q One more question: I think you said the squad car was running without lights, chasing Judge Holt?

A It had its lights on. I said it didn't have the red light or the siren on.

Q What do you mean by "red light"?

A Well, on a squad car we have a red light on the top of it.

Q It's the light up over the top?

A Yes sir, it's on top of the car, and it's more or less in a bullet shape. The front end is bigger than the back end, just a little. It has a light on the front, a big light on the front and a little light on the back. When you turn that light on it usually takes a few minutes for it to get working—a few seconds, I mean—and it blinks, sort of like that. In the middle of the light is a siren. When you push the switch for your siren, push your horn button, the siren works; but I never heard the siren and the only time I saw the light was when he got up about 62nd Street.

Q Now, when, in relation to the sparks which you observed, at 62nd Street, did the squad car turn on its red light? Was it at the same time?

A Well, it was either at the same time or — it was right in that area. I mean it could have been right at it, right before it or right a little after it. I wouldn't put a definite pinpoint on that.

Q Now, when you observed the sparks can you state whether or not you observed the stop light at 62nd Street?

A Well, that's been quite awhile ago. That's been almost two years ago. To the best of my knowledge, I couldn't actually say the light—which color it was. It could have been green. It could have been any color; but when I got up there and went through it the light—I had to go through on a red light, because I know I had to stop and slow down to make sure that I was clear before I went through there.

Q Is that a mid-intersection stop light at that intersection?

A Yes, it's above the street, hanging in the center.

Q Above the street?

A Yes sir.

Q Right in the middle of the intersection?

A Yes sir.

Q And you can't state with certainty whether or not it was green or red at the time of the impact. Is that correct?

A No sir, I couldn't state definitely that it was.

Q When you used the word "erratic" did you mean by that the fact that the horn was almost constantly being sounded and the fact that the car was speeding?

A That is what I've always defined "erratic" as. We pick a hot-rod up and we more or less book him for erratic driving, because most of the hot-roads will be speeding and cutting in and out of traffic. We consider that—I consider that as erratic driving.

Q Well, other than the times that Judge Holt, when he was behind you, went across the yellow line and then back, in his own lane of traffic, then finally exceeded the speed limit in going on past you and beyond you, do you know of any erratic driving on his part?

A Well, his horn blowing and—

Q I mentioned the horn blowing and his speed.

A No, nothing.

MR. HUNT: No further questions.

MR. HOPKINS: You can come down. Mr. Gschwind, please.

CHIEF JUSTICE TERRELL: Mr. St. John, this question is sent up by Senator Edwards:

"Would you estimate how fast Judge Holt's car was going when it passed you?"

THE WITNESS: My rough estimation, I would say it was going approximately sixty. I was going between thirty-five and thirty-eight. I would say he was going approximately sixty.

CHIEF JUSTICE TERRELL: How far was it from the time when you first saw Judge Holt's car to 69th Street—by Senator Davis.

THE WITNESS: Would you please repeat that, sir?

CHIEF JUSTICE TERRELL: Yes. How far was it from the time when you first saw Judge Holt's car, to 69th Street? How far was it to 69th Street from the point where you first saw Judge Holt's car?

SENATOR DAVIS: 62nd.

THE WITNESS: You mean 62nd?

MR. HUNT: Does the Senator mean 62nd Street?

SENATOR DAVIS: Yes.

THE WITNESS: I would say it's approximately a mile—maybe a little more or less.

MR. HOPKINS: We have no further questions.

RE-CROSS EXAMINATION

BY MR. HUNT:

Q It would have been a distance of approximately twenty-four city blocks, wouldn't it? You say it's from 38th to 62nd—38th or 39th to 62nd?

A That's right.

Q Twenty-three or twenty-four city blocks?

A Yes sir, approximately.

MR. HUNT: No further questions.

CHIEF JUSTICE TERRELL: That is all, Mr. St. John.

MR. HOPKINS: Mr. Gschwind, please.

(Witness temporarily excused from stand).

Thereupon,

CHARLES JOHN GSCHWIND,

a witness called and duly sworn on behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOPKINS:

Q Will you give your name, please?

A Charles John Gschwind.

Q What position do you hold?

A I am a Detective in the Miami Police Department.

MR. HOPKINS: I don't believe you're talking quite loud enough. Would you repeat that?

A I am a Detective in the Miami Police Department.

Q Were you such in December, 1955?

A No, I wasn't.

Q What position did you hold at that time?

A I was an accident investigator, in the Accident Squad.

Q Did you investigate the accident involving Judge George E. Holt?

A Yes sir.

Q Did you file a report?

A Yes, I did.

Q I hand you a report of the Miami Police Department and also a memorandum report signed "C. J. Gschwind" and "J. Headley," and ask you if that is your report?

A (After examining document) Yes. This accident report is a photostatic copy of my original. This is a carbon copy of my original.

Q Now, referring to your memorandum report, written out, will you read that slowly to the Senate?

A It is addressed to Lieutenant W. W. Harries, Accident Squad, December 21st at 1:30 a.m., from myself and my partner, Mr. Headley.

"At approximately 11:30 p.m. December 20th, 1955, we were headed south on Northwest 2nd Avenue awaiting further information on hold-up that just happened on Northeast 2nd Avenue and 10th Street. At approximately 44th Street and 2nd Avenue we observed dark Jaguar headed north, driving in erratic manner, weaving in and out of traffic, at excessive rate of speed and blowing his horn. We turned around at 43rd Street and pursued this vehicle.

"At Northwest 54th Street, had closed in to approximately one block behind this vehicle but were slowed by traffic and he increased his lead from two to three blocks. Between Northwest 56th Street and 59th Street we clocked him at over seventy miles an hour and were trying to get closer before using the red light and siren.

"When the pursued vehicle entered the block between 60th and 62nd Street—that's Edison Senior High School—the traffic light at Northwest 62nd Street was red for northbound traffic. When we reached the Northwest 60th Street intersection we observed the vehicle enter Northwest 2nd Avenue and 62nd Street intersection with the traffic light still red. We did not notice any brake light on the vehicle. The tail-lights were burning. We then saw a sudden flash on left side of vehicle. The vehicle then swerved to the right and to the left, where it came to rest between two buildings in a sand-pile northwest of intersection.

"We observed a white male and white female lying in the street and a motorcycle lying approximately seventy-five feet north of the intersection on west side of 2nd Avenue. We immediately advised the Station, 11:36 p.m. and requested as follows: Three white ambulances, the Rescue Squad, the Special Investigator, two wreckers and another Police car to assist with traffic.

"Officer St. John, off-duty Policeman, arrived immediately after us and advised that he had witnessed the accident also.

"The white male motorcycle rider was lying unconscious on the northeast corner of the street and the white female

was conscious, but apparently seriously injured and was lying in the center of 62nd Street intersection.

"The driver of the Jaguar was also unconscious and pinned beneath the steering wheel. His left door jammed closed. The right seat was occupied by a French Poodle, uninjured. The driver was slumped down over the seat to right of steering wheel.

"The squad and ambulances arrived and we assisted the Firemen in prying open the left door of the Jaguar with a light crowbar to remove the driver.

"Detective Berquist arrived and we started our on-the-scene accident report. After getting all information available we started for Jackson Memorial Hospital, but were advised to drop the dog off at the Precinct and call Captain Ford, who by phone advised us that the driver was Judge Holt.

"We then proceeded to Jackson Memorial Hospital, where we completed our report and sent same over to Detective Berquist."

Signed by my partner and myself.

MR. HOPKINS: We will offer in evidence at this time the report and the memorandum report, and ask that they be marked with specific numbers as Exhibits.

MR. HUNT: No objection.

(Whereupon said Police Report and Memorandum Report were received in evidence as House Managers' Exhibits 25 and 26, respectively).

BY MR. HOPKINS:

Q Mr. Gschwind, I now hand you an aerial photograph of the intersection of Northwest 2nd Avenue and 62nd Street, and ask you if you can identify that as being said intersection?

A Yes, I recognize this intersection.

MR. HOPKINS: We likewise offer the photograph in evidence, and ask that it be marked with an appropriate number.

MR. HUNT: May I see it?

MR. HOPKINS: Yes, sir.

(Said aerial photograph was examined by Mr. Hunt).

MR. HUNT: No objection.

(Whereupon said aerial photograph was received in evidence as House Managers' Exhibit 27).

MR. HOPKINS: If the Court please, we now offer in evidence a certified copy of the Municipal Court record, showing the disposition of the case in Municipal Court at Miami. Would you like to see this, Judge?

MR. HUNT: Yes, I would.

(Said document was examined by Mr. Hunt.)

MR. HUNT: No objection.

(Whereupon said Municipal Court record was received in evidence as House Managers' Exhibit 28).

MR. HOPKINS: We will ask at this time that the Secretary read the last exhibit that we have just offered.

MR. LINN, Assistant to the Secretary (Reading): "In the Municipal Court in and for the City of Miami, Dade County, Florida. Trial Docket Case Number 81934.

"State of Florida, City of Miami,
Plaintiff

Versus

"George E. Holt, Defendant."

This is a form, so I will start at the top and read down:

"One George E. Holt, on the 20th day of December, A. D. 1955, having in the City of Miami, Dade County, Florida, did then and there upon a public street unlawfully drive and

operated a motor vehicle in a wilful or wanton disregard for the safety of persons or property of another:

"1. By driving said motor vehicle at an excessive rate of speed.

"2. By failing to obey an automatic traffic signal, red, causing or resulting in an accident, causing damages to two motor vehicles and causing three personal injuries, against the peace and dignity of the City of Miami and in violation of Section 49 of Chapter 55 of the Code."

And then it gives a description here:

"Race, W.

"Sex, M

"Age, 54

"Bond: Without bond

"Arrest: Arraigned on complaint of C. J. Gschwind by Officer W. B. Pittman, Desk Sergeant.

"Place of arrest: Desk Sergeant's Office, 16th Floor, Court House

"Date: January 17, 1956

"Time, 11:10 a.m.

"Said defendant called for trial on day"—that's blank—"and not answering or appearing, it is hereby ordered and adjudged that the bond of said defendant is estreated, thereupon it is ordered and adjudged that the City of Miami recover of and from said defendant the sum of \$ for which let execution issue.

"Done, ordered and adjudged in Open Court, Miami, Dade County, Florida, this — day of , 19—."

Then it's " , Judge."

Then there's another section here:

"Arraignment, judgment, sentence and order.

"Said defendant arraigned on this February 10, 1956, p.m., and entered a plea of nol contendere to the charge of reckless and careless operation of a motor vehicle resulting in an accident and, as set forth herein. After hearing the evidence and duly considering the same, the Court finds the defendant, George E. Holt, is Guilty as Charged, and it is ordered and adjudged that the defendant, George E. Holt is guilty as charged of said offense of reckless and careless operation of a motor vehicle, resulting in an accident.

"It is therefore the judgment and order of the Court that you, the defendant, George E. Holt, be imprisoned in the City Jail of Miami, Florida, for a term of —" —and "days" is scratched out — "and pay a fine of \$200 and \$10 cost herein, and in default of such payment you, the defendant, George E. Holt, stand committed to the City Jail of Miami, Florida, for a term of sixty days.

"Done, ordered and adjudged in Open Court at Miami, Dade County, Florida, this February 10, 1956."

The Judge is Arthur S-ch---- I can't read that name.

MR. HOPKINS: We have no further questions of this witness.

CROSS EXAMINATION

BY MR. HUNT:

Q Mr. Gschwind, the charge of reckless and careless driving of a motor vehicle under the Traffic Code of Miami does not include driving under the influence, or otherwise known as drunk driving, does it?

A No.

Q Pardon?

A No.

Q What is the charge when one is accused of driving under the influence of intoxicating liquor?

A The charge is operating a motor vehicle under the in-

fluence of alcoholic intoxicating beverage, or under the influence of narcotics.

Q No such charge was registered against Judge Holt, was there?

A No, there was not.

Q I will ask you to state to the Senate when you were chasing the Jaguar in the Squad Car, whether the topside red light and siren were on or off?

A They were off.

Q Did you, at or about the time of the intersection accident, turn them on?

A Yes, just about at the intersection.

Q Just about at the time - -

A When we were approaching the intersection my partner reached over and put them on.

Q Did you have Judge Holt's car under observation for a considerable number of blocks as you were chasing it?

A Yes sir.

Q Have you, in your experience as a Police Officer, had occasion to chase and to overtake a considerable number of speeders?

A Oh, yes.

Q Both intoxicated and not intoxicated?

A Yes, I have, quite a number.

Q Can you state whether or not, as you observed Judge Holt's car—except for the speeding, was that car being driven in a manner which indicated to you that the driver was not normal in any way?

A Well, I have pursued about seventy to a hundred drunken drivers, and in my honest opinion this vehicle was operated by a person that was not under the influence of an alcoholic intoxicating beverage.

Q I will ask you to state whether or not the car wobbled from side to side or was it driven on a straight course?

A It didn't wobble, no. He cut in and out of traffic at an excessive rate of speed, but it was done with precision. He didn't hit anybody. He knew when to enter the vehicles spaced in front. Then when we left 59th Street, I believe it was, there was a straight course where there were no other vehicles involved and the vehicle drove a straight course right towards the point of impact. There was no drifting or anything.

Q On his right side of the street?

A Yes. The yellow line was on his left then.

Q Now, if one wishes to pass traffic headed in the same direction on that street, is it not necessary to cut over on the opposite side?

A This street is thirty feet wide, and I would say that for a person to pass another vehicle safely they would definitely have to enter the opposite lane at least partially.

Q And that could not or certainly should not be attempted with any oncoming traffic, should it?

A No, definitely not.

Q Do you recall any oncoming traffic during that period of the chase?

A No, I don't.

Q Now, at the point of the accident how close did you get to the Jaguar and to Judge Holt?

A You mean at the point of impact how close were we?

Q No. After the accident, I should have said. Did you get close to the Jaguar and to Judge Holt after the accident?

A I walked up to the Jaguar and stood outside of the Jaguar. I saw the driver crumpled up under the seat and

I saw him bleeding and I knew that he was definitely injured seriously, so I didn't go anywhere near him.

Q Was he unconscious?

A Oh, yes.

Q Was the dog trapped up under the other seat?

A At first I didn't know there was a dog in the car, because the seat on the right had fallen forward. Then I heard a dog making a little noise and another Policeman -- at this time several other Officers came, and another Policeman said, "There's a dog in there," and he reached in and lifted the dog out.

Q Did you see or smell any evidence of any alcoholic liquor?

A No sir.

MR. HUNT: No further questions.

RE-DIRECT EXAMINATION

BY MR. HOPKINS:

Q Mr. Gschwind, let's go back over the testimony just a little bit. You clocked this man going more than seventy miles an hour. Is that correct?

A Yes sir. That's what the speedometer on my accident car said.

Q He was blowing his horn going through that traffic, was he not?

A Yes.

Q He passed a red light, did he not?

A Yes.

Q And he hit a motorcycle that was going on its green and on the red of Judge Holt. Is that correct?

A That is correct.

Q And you still say that you haven't chased a drunk driver that drove like that before?

A I said that the vehicle didn't weave. The vehicle was operated -- let's say like a fellow in an awful hurry.

Q Did you have any kind of blood test or other test made to see if Judge Holt had been drinking that night?

A No. That's not my job.

Q It's not your job as an investigator to try to find out?

A I only gather the facts on the scene, and from there on my information is turned over to Detective Berquist.

BY MR. HUNT:

Q Detective who?

A Ed Berquist.

BY MR. HOPKINS:

Q Did you check to see whether or not Judge Holt had been drinking immediately prior to the wreck?

A That, again, was not my duty. That was Detective Berquist's job.

Q Were you told by anybody that he had been under the influence of whiskey?

MR. HUNT: I object, to him asking the witness what he was told, Your Honor please. It is hearsay.

CHIEF JUSTICE TERRELL: Objection sustained.

Q How close did you go to Judge Holt after the accident?

A When he was in the car?

Q Right.

A I just stood outside and looked in.

Q Now, you put in your report that he was driving in an erratic manner. Is that correct?

A Yes sir.

Q And over seventy miles an hour?

A Yes sir.

MR. HOPKINS: We have no further questions.

RE-CROSS EXAMINATION

BY MR. HUNT:

Q Mr. Gschwind, I hand you your report and ask you to state the estimated speed at the time of the accident as noted in that report.

A In this report we note it as between fifty and seventy.

Q Well, the span between fifty and seventy is quite considerable. Isn't it true that as you proceeded and started gaining on Judge Holt's car, from a considerable distance away, that you could only estimate his speed?

A Oh, definitely.

Q You could not get a correct clock on him, could you?

A No.

MR. HUNT: No further questions.

RE-DIRECT EXAMINATION

BY MR. HOPKINS:

Q Did you report that he was gaining on you?

A Beg pardon?

Q Did you report in your report that Judge Holt was gaining on you and leaving you?

A At one time on my report I believe I say that the traffic held us back between 54th -- I don't remember the intersections that it was there.

Q Was he gaining on you after you had clocked him at over seventy miles an hour?

A No. After 59th Street we were gaining on him, as we crossed 62nd. After 59th Street there was a clear roadway, no vehicles there.

MR. HOPKINS: We have no further questions.

RE-CROSS EXAMINATION

BY MR. HUNT:

Q What kind of car were you driving?

A A Ford.

Q How old was it?

A It was about a year old.

Q How many miles did it have on it? Do you know?

A I'm not too sure -- well, over sixty thousand, almost seventy thousand.

Q What, approximately, was its top speed?

A It was seventy. That was it.

Q Seventy?

A That was all it would do.

Q Was that about its top speed?

A Yes sir. It was a six-cylinder, a big station wagon.

Q And you had closed the gap between you and Judge Holt, had you?

A Yes, we were gaining at the point of impact.

Q At the point of impact how far behind him were you?

A I really can't recall, because I remember looking over and watching Jack reach over to press on the button to put on the emergency light and the siren, and he wouldn't have

put them on if we weren't in a position that we might apprehend a driver.

Q You were right close to him, would you say?

A Yes sir. It was being done before the impact, actually.

Q And you had been on the side street when you noticed his car, in the first instance, headed north, and you swung around and you came to 2nd Avenue and then you turned northward in order to catch him, did you not?

A No. We were on 2nd Avenue, going south, and he was coming north, and we made a U-turn and pursued his vehicle.

Q Where did you make the U-turn?

A On 43rd Street, I believe.

Q About 43rd?

A Some place around there.

Q Well, as you got under way, what was the furthest distance between you? Could you estimate that?

A Between two and three blocks.

Q And at the time of impact you had considerably closed that up?

A Oh, yes.

Q And were ready to make your presence known by turning on the light and the siren?

A That's correct.

MR. HUNT: No further questions.

MR. HOPKINS: We have no further questions.

MR. HUNT: That's all.

THE WITNESS: Am I excused?

CHIEF JUSTICE TERRELL: Yes.

(Witness excused from stand).

MR. HOPKINS: Mr. Feitelson, please.

MR. HUNT: Your Honor please, this next witness might be a long one. I note it is five to twelve. I just wondered if the Senate would like to hear him before lunch time.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I've just been advised by the State's Attorney that he can probably finish his Direct testimony by twelve o'clock.

Thereupon,

LEONARD J. FEITELSON,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. JOHNSON:

Q What is your name, please?

A Leonard John Feitelson.

Q How old are you?

A Twenty-three.

Q Will you tell us if you were at the intersection of 2nd Avenue and 62nd Street, in the Northwest section of Miami, on the night of December 20, 1955?

A Well, I had stopped for a red light.

Q At what intersection?

A At 62nd Street and Northwest 2nd Avenue.

Q Who was with you at the time?

A Mary Martin.

Q Were you on a motorcycle?

A Yes, I was.

Q Tell the Senate what happened then?

A I was waiting for the light to turn green, and I was talking to Mary, and when the light turned green I put the motorcycle in first gear and proceeded to take off.

Q In what manner did you proceed to take off?

A Pretty slow. I was just barely going—approximately five miles an hour.

Q What happened then?

A I got about fifteen feet and - -

Q Into the intersection?

A Into the intersection, and I heard this terrific roar, and I saw a car coming, and before I had a chance to do anything I hit the brake and he hit me.

Q Now, from what direction was the car coming?

A He was proceeding north on Northwest 2nd Avenue.

Q Now, what would be his normal side of the street?

A The right-hand side.

Q That would be the opposite side of the street from where you were?

A That's correct.

Q Which direction does 2nd Avenue run?

A It runs north and south.

Q So his normal side of the road would be, then, on the east side of 2nd Avenue?

A That is correct.

Q What side of 2nd Avenue was the car on when it struck you?

A The west-hand side of the road.

Q Was he in the wrong lane?

A Yes, he was.

Q Did you have a chance to get out of the way before the car struck you?

A No, I didn't.

Q Do you remember anything else about the impact?

A Well, he had hit my front wheel, and that was it.

Q Were you thrown off of the motorcycle, together with Miss Martin?

A Yes sir.

Q Could you estimate how fast the car was coming that hit you?

A No, I couldn't.

Q All you heard was that roar before he hit you?

A Yes sir.

MR. JOHNSON: You may examine, Mr. Hunt.

CROSS EXAMINATION

BY MR. HUNT:

Q Were you stopped at the intersection before you took off?

A Yes sir.

Q In low gear?

A Yes sir.

Q Did you have a clear view north and south?

A Yes sir.

Q Did you look north or south?

A Yes sir.

Q Did you look south?

A Yes sir.

Q You didn't see anything coming?

A No sir.

Q No lights?

A I hadn't noticed it.

Q Did you look south?

A Yes, I did.

Q Your view southward on 2nd Avenue was completely unobstructed, was it?

A Yes sir.

Q And you went fifteen feet, and all of a sudden you were hit by a car with lights on that you didn't see before?

A Yes sir.

MR. HUNT: No further questions.

RE-DIRECT EXAMINATION

BY MR. JOHNSON:

Q How badly were you hurt, Mr. Feitelson?

A Well, I now have false teeth; I've lost part of my sight in my right eye; I have my jaw broken in two places, my neck fractured, my shoulders and my elbows and my wrists and my thumbs and my kneecaps and my ankles.

MR. JOHNSON: That's all.

RE-CROSS EXAMINATION

BY MR. HUNT:

Q Have you received compensation as a result of a lawsuit based on those injuries?

A Yes, I have.

Q Will you state what your over-all award was, or settlement?

A The total, over-all, was \$39,000.

Q \$39,000?

A Yes sir.

MR. HUNT: No further questions. I would like to recall - -

RE-DIRECT EXAMINATION

BY MR. JOHNSON:

Q How much did you get from the \$39,000 that you received?

MR. HUNT: I object to that, Your Honor please. That has nothing to do with it.

CHIEF JUSTICE TERRELL: Objection overruled.

Q How much did you receive out of this sum of money which Judge Hunt asked you about?

A \$14,559.50.

MR. JOHNSON: That is all.

RE-CROSS EXAMINATION

BY MR. HUNT:

Q What happened to the rest of it?

A The attorneys got it, plus for my doctor bill.

Q Did you employ the attorneys on a contract basis?

A My mother got the attorneys at first, and I had signed with the attorneys, and after I had signed with them, then they put me away in an institute.

Q Had you employed them on a contract basis?

A I did, and they immediately put me in a padded cell.

Q Who, the attorneys?

A Yes sir.

MR. HUNT: No further questions.

MR. JOHNSON: Come down. That is all.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: A point of order.

CHIEF JUSTICE TERRELL: Point of order sustained. Court adjourned until 2:00 o'clock this afternoon.

Whereupon, it being 12:00 o'clock Noon, the trial was recessed until 2:00 o'clock p.m. of the same day, to wit, July 30, 1957.

AFTERNOON SESSION

The Senate was called to order at 2:00 o'clock p.m., July 30, 1957, by Chief Justice Terrell.

CHIEF JUSTICE TERRELL: Order in Court. The Chair declares a quorum present. You had finished with the last witness hadn't you, Counsel?

MR. JOHNSON: Yes, Your Honor. Call Jesse Shannon.

Thereupon,

JESSE R. SHANNON,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. JOHNSON:

Q Will you give your name, please?

A Jesse R. Shannon.

Q What is your occupation, Mr. Shannon?

A I am a car painter.

Q By whom are you employed?

A By Crane Brothers Motors.

Q Where is that?

A That's at Northwest 2nd Avenue and 71st Street, Miami, Florida.

Q In December of 1955 did you have any other part-time employment?

A Yes sir. I was working at a Shell filling station on 2nd Avenue and 36th Street Northwest.

Q A Shell station?

A Yes sir, Shell.

Q Were you working there on the night of December 20, 1955?

A Yes sir, I was.

Q Did anything unusual happen that night, Mr. Shannon?

A Yes sir. A Jaguar came in there at approximately ten minutes after eleven.

Q Now, how do you fix the time at ten minutes past eleven?

A Well, sir, we generally started our clean up at eleven o'clock, and I had just taken a couple of cases of drinks to the back, and came around front when this Jaguar came in.

Q Did you at that time know who the occupant of the Jaguar was?

A No sir, I did not.

Q Have you since learned who he was?

A Yes sir, I have.

Q Who have you learned him to be?

A Judge Holt, sir.

Q Was anybody in the Jaguar with him?

A There was a black French poodle, sir.

Q There was no other person, though?

A No sir, no other person.

Q Tell the Senate what happened when Judge Holt drove up with a black poodle in his Jaguar.

A Excuse me, sir, I didn't understand you.

Q Tell the Senate what occurred, in your own words, when Judge Holt drove up into your station about ten minutes past eleven, in his Jaguar automobile, with a poodle in the front seat.

A Well, sir, we have quite a few people come in there for information. It's a very busy corner and, since the Jaguar was pulled diagonally across the island, I immediately figured that that was what the occupant wanted, was information. I went over and asked the occupant if I could help him, and he sat there for a few seconds, looking around, and never did answer me, and I think I asked him the second time if I could help him, and he said, "I'm looking for a bar" or "for a place to get a drink." I laughed a little bit and I said, "Well, this is a Shell filling station." I said, "I can't help you."

Q Then what happened?

A In the meantime there was a - - I noticed this beautiful dog, this French poodle, in the front seat, and the conversation led to the dog. I said, "That's a very nice French poodle," and he said, "Yes, it is." He said - - I think he said something about buying from some foreign city - - Paris, or somewhere, and paying two or three hundred dollars for it.

In the meantime, he took out a roll of bills and I figured that he wanted change for one of the bills, since I had a changer in my belt, but I was never asked for any change or for anything else.

Q Well, what form were these bills in? Was it in a wallet or - -

A No sir. It was a roll of bills, actually, and I thought that was what he was trying to do, was to get a bill out to give me for change.

Q Did he hand you a bill?

A No sir, he didn't.

Q Well, what did he do with the money? Why did he take it out?

A I don't know, sir. He put it back in his pocket.

Q Did you have a further discussion about bars at that time?

A After he had asked me that and I told him I couldn't help him, I immediately started pointing to two or three places around in the vicinity where there were some bars. There was one on 2nd Avenue and 36th Street which is called "Smith Brothers." There is one south of the station about two blocks which is called the Pig & Whistle, and there is one directly west of the station, a small place, called the White Lounge. I pointed these out to him and he says, "No," he says, "that's not what I'm looking for."

Q What happened next, Mr. Shannon?

A Well, I was by myself at the time, and another customer came in, and I seen that I couldn't help him any farther right at that moment, so I started to walk over there. I was

going to wait on this other customer, and so I seen when I walked over. I immediately stopped and turned around, and he started to pull out, and I noticed his leaving the station.

Q Describe the manner in which he left the station.

A It was in a very fast way. He took off very fast.

Q What did he do? Which way did he go and what happened?

A Well, he started out - - in fact, I didn't think he was going to straighten up when he started out of the station heading east on 36th Street, but he did straighten up and he headed east on 36th Street.

Q How close did he come to the curb on 36th Street?

A Well, it must have been pretty close, because we thought he was going to hit the curb.

Q Were any other cars going down 36th Street at the time Judge Holt pulled out into 36th Street in the manner you have described?

A Yes sir, there was one headed west.

Q What happened to that car?

A Well, sir, the occupant of that car had to slow down to keep from running into the Jaguar.

Q Then what else happened? Did you see anything else?

A After we saw him take off that was the last we saw of him.

Q Now, from your personal observation that you have described to the Senate, did you form any opinion at that time as to whether the man in the Jaguar had been drinking?

A Yes sir, I did.

Q Tell them your opinion and what you base it on.

A Well, my opinion, sir, was that he had been drinking, for two or three reasons. I based it on one fact—that he evidently didn't know where he was, and the fact that his actions wasn't that of a normal person, and the roll of bills. That made me think that a normal person wouldn't take out a big roll of bills like that.

Q Did he drive off in a normal manner?

A No sir, not that I would say a normal person would drive off.

Q Well, based upon what you personally observed, was he in condition to drive an automobile at that time?

MR. HUNT: Your Honor, please, this witness is not qualified as an opinion witness, and I object to the question.

CHIEF JUSTICE TERRELL: He can give his opinion. I don't know what it's worth. The objection is overruled. He can give his opinion.

BY MR. JOHNSON:

Q Answer the question, Mr. Shannon.

A I'm sorry, sir.

Q I said, in your opinion, based upon what you personally observed and have described to the Senate, was the occupant of that Jaguar in a fit condition to drive his car?

A I would say no, sir, definitely not.

Q Did you later hear of any accident concerning the Jaguar automobile and the driver?

A Yes sir. Before I left the station that night I did know of the accident. A couple of fellows came in there just about the time the ambulances went by and they followed the ambulances up to 62nd Street and Northwest Second Avenue, and they came back to the station at approximately twelve o'clock, before I left, and began telling me about this accident they had seen up there, and they told me that there was a - -

MR. HUNT: Now, that is purely hearsay and we object, if the Court please. It was not in this Respondent's presence.

CHIEF JUSTICE TERRELL: Objection sustained.

Q But you did have a conversation with some people that same night?

A Yes sir, I sure did.

Q Now, you said a little earlier that no one else was helping you at the station. Did you have any other friends or acquaintances at the station?

A Yes sir, there was. Mr. McGonigal was there.

Q About what time had he gotten to the station?

A Approximately eleven o'clock, sir.

Q Mr. Shannon, what direction had the Jaguar come from and what direction was it going in when it drove into your station?

A He was coming south on 7th Avenue.

Q When he left the station what direction did he go?

A He headed east on 36th Street.

Q I now hand you Managers' Exhibit for Identification No. 29. What does that depict?

A That shows the filling station at night and it shows 7th Avenue, heading south.

Q That would be the same direction that the Jaguar was going before he pulled into the station?

A That's right, sir.

Q I show you Managers' Exhibit for Identification No. 30 and ask you what that picture shows.

A This, sir, is the same picture taken in daylight. It is a view of 7th Avenue, headed south.

Q I show you Managers' Exhibit for Identification No. 31 and ask you what that depicts.

A This is a direct picture of the station, of the intersection of 7th Avenue and 36th Street.

Q I show you Managers' Exhibit for Identification No. 32.

A This is also the same picture, taken at night, of the intersection of 36th Street and 7th Avenue.

Q Now, which direction on this picture would be going east on 36th Street?

A (Indicating) This would be heading east.

Q To the right?

A To the right.

Q The same is true of the daytime picture, is it not?

A That's right, sir.

Q I show you Managers' Exhibit for Identification No. 33 and ask you what that depicts.

A This, sir, is an aerial view of 7th Avenue and 36th Street, on which is shown the station, right here.

Q And another picture, Managers' Exhibit for Identification No. 34.

A This is also an aerial view of the station, by showing it on the other corner. This would be the northeast corner.

MR. JOHNSON: We offer these pictures in evidence, Your Honor.

(Counsel for Respondent thereupon examined the photographs just offered into evidence.)

MR. HUNT: Mr. Johnson, do you intend to have the witness mark these pictures and show which view each is? Are you just offering them all as one exhibit?

MR. JOHNSON: I offered them as exhibits as I indicated, by marking them for identification in the record.

MR. HUNT: Each one?

MR. JOHNSON: From 29 through 34, I believe. Is that correct, Mr. Lee?

THE REPORTER: Yes, sir.

MR. HUNT: Mr. Shannon, do you recognize all these pictures?

THE WITNESS: Yes, I do.

MR. HUNT: No objection.

(Thereupon the six photographs just offered in evidence were received in evidence as Managers' Exhibits Nos. 29, 30, 31, 32, 33 and 34, respectively.)

BY MR. JOHNSON:

Q Mr. Shannon, will you step up to this map of the Miami area and mark it, circle the intersection on which the Shell Filling Station is located. Put a circle around the intersection.

(The witness marked upon the map.)

Q (Continuing) And, right next to the circle, "Station."

A Write "station," sir?

Q Yes sir.

A (Writing on map) All right, sir.

MR. JOHNSON: You may examine.

CROSS EXAMINATION

BY MR. HUNT:

Q Mr. Shannon, do you recall testifying before the Legislative Committee in this matter, up here in Tallahassee?

A Yes sir, I do.

Q Do you recall the question being posed to you as follows: "Well, would you say he was drinking heavily?"

A Yes sir.

Q Do you recall your answer to that question?

A I believe I said something to the effect that I would say he wasn't drinking too heavily, or heavily.

Q Did you not answer the question as follows:

"Well, that would be hard to say. I don't believe I would say he was drinking heavily, no, sir."

A Yes sir.

Q Is that correct?

A Yes sir.

Q Now, Mr. Shannon, that filling station of yours is on a corner. It's on the northeast corner of 7th Avenue and 36th Street, isn't it?

A That's right, sir.

Q You say the Jaguar came on to the corner of the so-called island?

A Yes sir.

Q By that you mean the plot of ground on which your filling station was located, do you not?

A That's right.

Q Your filling station had pumps, recessed beyond the sidewalk on both the west and the north sides, did it not -- or the south side?

A West and south, yes sir.

Q West and south sides?

A Yes.

Q Do I understand that Judge Holt did not come to the pumps -- he came in cater-cornered between those two sets of pumps?

A That's right, sir.

Q And his car was headed, generally, southeast?

A That's right.

Q His front wheels would have been fairly close to the curb of the street, would they not?

A Well, sir, I don't know what you mean, "fairly close."

Q Well, you can tell us. How close were they?

A Well, sir, I would say it would be approximately, oh, 15 feet from the street.

Q Are you counting the sidewalk now?

A Yes sir.

Q Or the curb?

A I'm counting the sidewalk.

Q How wide is the sidewalk?

A Oh, it would be about seven or eight or nine feet wide.

Q As a matter of fact, there is no sidewalk there, is there?

A Well, there's a sidewalk that people walk on, yes sir.

Q Well, the sidewalk had been built flush up to by the filling station lot level, all in concrete, has it not?

A That's right, sir.

Q So the sidewalk is on a level with the entire paved portion of the filling station area. Is that correct?

A Well, your driveway has a downgrade to it.

Q I'm talking about the sidewalk.

A Where the sidewalk is, yes sir.

Q Now, at the curb entrance over the sidewalk there is a depression to locate your driveways. Is that right?

A That's right.

Q Now, you have two such driveways on either side. Is that correct?

A That's right.

Q You have two on 7th Avenue, towards which Judge Holt was generally headed and you have two on 36th Street. Is that right?

A That's right.

Q Now, he had come south, apparently, on 7th Avenue?

A Yes sir.

Q He pulled up more or less cornerwise in your plot of ground, headed, generally, southeast, which would mean, if he went on in that direction, he had to turn east on 36th Street. Is that correct?

A That's correct, sir.

Q Now, at that point, adjacent to your filling station, traffic on 36th Street is westbound, isn't it - - next to the filling station?

A Yes sir, westbound.

Q On the filling station side; that is to say, on the north side of 36th Street westbound traffic utilized that side of 36th Street?

A That's right, sir.

Q That meant, whether Judge Holt or any other car came out of your filling station to head east out of either one of those driveways, that he, generally, was going against and bucking westbound traffic on 36th Street. Is that correct?

A That's correct, sir.

Q And, as a matter of fact, you have testified that one car

did have to slow down, so Judge Holt went around the front of him and then turned east on 36th Street. Is that correct?

A That's right.

Q Do you think it could have been that Judge Holt watched his chance to get across that on-coming stream of traffic, in order to get across to the other side, to head east?

A Well, sir, I don't believe he was watching the traffic at all.

Q I know you don't believe that, but I say could it have been?

A It could have been, yes sir.

Q As a matter of fact, he did go fast and in front of a car which applied its brakes and he was permitted to go on around it. Is that correct?

A That's correct, sir.

Q Now, you had, in the meantime, started to service a customer at the west pumps, had you not?

A That's right, sir.

Q That carried you north of Judge Holt's area, didn't it?

A No sir, it carried me west of his area.

Q And north?

A West and north, yes sir.

Q His car was quite a number of feet south of your west pump, wasn't it?

A I would say about five feet, sir.

Q And yet he was cater-cornered, and that was only five feet from your west pumps?

A Oh, from the west pumps, you mean?

Q Yes.

A Yes, he was farther from the west pumps.

Q How far? Fifteen or twenty feet?

A I would say about 15 feet, yes.

Q And back there was a customer?

A Yes sir.

Q You went back to service the customer?

A Yes sir.

Q You turned around and saw him take off. Right?

A Yes sir.

Q Now, immediately to the east of the filling station plot there is a glass company building that comes right up to the curb, isn't there?

A Right up to the sidewalk.

Q Right up to the sidewalk; and you could not see the path of the Jaguar beyond that line of vision, whatever it may have been?

A Well, the front and side of that building is both glass, completely glass, and you can see right through it.

Q Are you sure of that?

A Yes sir, I'm positive of it.

Q Well, how far did you see him?

A I would say approximately half a block, sir.

Q Are you sure of that?

A Yes sir.

Q You have testified under oath before on two or three occasions as to how far you saw the Jaguar?

A I believe I gave it in feet before, sir, but I don't - - I think I stated I didn't know how far.

Q Well, let's give it in the truth. How far did you see the Jaguar, in your opinion?

A I believe I would say about 120 feet, sir - - something similar to that.

Q Would that be about a quarter of a block?

A I don't even know how many feet are in a block, sir. I was just using my own judgment.

Q Well, you are now going to feet. Didn't you testify before as to a block measurement?

MR. JOHNSON: If the Court please, we object to this line of impeachment. The proper ways to ask him - -

MR. HUNT: I'm not impeaching him. I'm cross examining him.

MR. JOHNSON: You are talking about different hearing. The proper way to ask him the question is to ask him if he stated that.

MR. HUNT: I shall, Mr. Johnson, when he denies it.

MR. JOHNSON: We object to this line of examination.

CHIEF JUSTICE TERRELL: Counsel won't talk with each other. Let the witness give his judgment, his memory. I think he has answered the question. Give what, in your memory or judgment, is the distance, Mr. Witness. That was your question, wasn't it, Judge Hunt?

MR. HUNT: Yes sir.

THE WITNESS: I'm sorry, sir.

BY MR. HUNT:

Q Let me rephrase the question. Do you recall your previous testimony on this point, as to how far you had the Jaguar under your observation?

A Not in feet, no sir. I don't recall exactly what I said.

Q Do you recall in measurements of blocks?

A I think I said about a quarter of a block.

Q Is that approximately correct?

A If I remember right it is, sir.

Q Is that still correct - - about a quarter of a block?

A As far as my observation of it?

Q Yes.

A Yes sir.

Q Did you smell Judge Holt's breath?

A No sir, I did not.

Q What did he do with that wad of bills after he took them out of his pocket and you assumed that he was about to ask for some change and he didn't? What did he do with that wad of bills?

A He put them back in his pocket before he drove off.

Q In wadded-up form?

A They wasn't in as compact a form as it was when he took them out.

Q Pardon?

A It wasn't in as compact a roll as it was when he took it out of his pocket, because he was looking, actually looking, I thought, for a bill, that he had unwadded.

Q Which pocket did he put them back into?

A That I don't know, sir. I believe it was his right pocket.

Q He just put them loose, like, wadded up, in his right pocket?

A Yes sir.

Q Is that correct?

A Yes sir.

Q You didn't see him walk?

A No sir.

Q You see Judge Holt, sitting here at the table?

A Yes sir.

Q Do you know him, to recognize him?

A Yes sir.

Q You have seen him up here during the Legislative investigations?

A Yes sir.

Q And he is the man you saw that night?

A Yes sir.

Q Did any police officer of the City of Miami, named Berquist, Detective Berquist, later come by and check up with you about this occasion?

A There was a police officer came by, sir, but I didn't know his name.

Q Did you see him up here at the House investigation?

A No sir, not at first.

Q Did you tell him about Judge Holt coming in that night?

A Yes sir. That was what he was up there for.

Q Did he suggest to you that if you thought that he was under the influence of intoxicants it was your duty to go with him to the police station and swear out a warrant?

A To my knowledge, sir, he did not ask me that. I don't remember it.

Q He didn't invite you to go to the police station and swear out a warrant?

A Not to my knowledge, no sir.

Q Did you on that occasion express any animus or animosity or dislike for Judge Holt to that police officer?

A No sir, I did not.

Q Do you recall another police officer coming by later on, checking up on this matter?

A Yes sir.

Q Who was that?

A I've learned since, sir, that the names, I believe, were Headley and Quinn.

Q Quinn?

A Yes sir.

Q Was Quinn with Headley when he came by to talk to you about this matter?

A I believe they were, sir.

Q Did you know that he had come by to discuss the matter with you at the request of the Grand Jury, or did he tell you?

A No, he did not tell me.

Q Do you recall what you told him?

A I told him the same thing as I've told everyone else, sir - - the same thing.

Q Did you at that time express any animosity or hatred or dislike for Judge Holt?

A No sir, I did not.

Q Can you recall, in any more detail, what Judge Holt told you about the poodle and where he had acquired it?

A No sir, I sure can't.

Q What do you recall?

A Just that I mentioned it, that it was a very fine-looking dog, and he said something to the effect that he - - I believe he said, "I bought that dog over in Paris."

Q And what about the amount he spent for it?

A The exact amount I don't know, sir, but it was up in money, and I didn't think nothing about it. I knew those dogs were very expensive.

Q Now, when he left were you at that time servicing the car at the west pumps?

A No sir, I was not.

Q Where were you?

A I was standing - - approximately, I would say, about five feet from the center of the office.

Q The center of what?

A Of the office, where the office is located.

Q I understood you to say that you had gone from Judge Holt to the customer at the west pumps?

A I hadn't got there, sir. I hadn't gotten over to the other customer yet.

Q You turned around to watch him start out. Is that it?

A Yes sir.

Q Mr. Shannon, do you drink?

A No sir, I don't.

Q Do you have any prejudice against persons who do drink?

A None whatsoever, sir.

Q I hope you will pardon me for asking you the question, but we have been through it before and you pardoned me. Your father was a drinking man, wasn't he?

A Yes sir, he was.

Q And shortly before this matter pertaining to Judge Holt he had suffered much the same experience, had he not?

A Yes sir, he had.

Q He was convicted and lost his license?

A Yes sir.

Q In the City of Miami?

A Yes sir.

MR. HUNT: Thank you. That's all.

MR. JOHNSON: Come down. Return to the witness room, please.

(Witness excused from stand.)

MR. JOHNSON: Call Mr. McGonigal.

Thereupon,

WILLIAM E. MCGONIGAL,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. JOHNSON:

Q Will you tell the Senate your name, please?

A William E. McGonigal.

Q Where do you work?

A At Crane Brothers Motors. I am a painter.

Q Were you in the filling station on the corner of 7th Avenue and 36th Street, the Shell station, in which Mr. Shannon was working, on the night of December 20, 1955?

A Yes sir, I was.

Q About what time did you get to the station that night?

A Approximately about eleven o'clock.

Q Where had you been, sir?

A I was at a movie up at 61st Street and 7th Avenue Northwest.

Q Were you there when the Jaguar automobile came in?

A Yes sir.

Q At that time did you know who the driver was?

A No, I didn't.

Q Have you since learned who he is?

A Yes sir.

Q Who did you learn him to be?

A I learned him to be Mr. Judge Holt.

Q Was there any other occupant in the car with Judge Holt that night?

A A French poodle.

Q Just tell the Senate what you saw and observed, personally, that night, sir.

A Well, as the car pulled in I was standing there, and Mr. Shannon come over and asked - - talking to him about him wanting information, and Mr. Shannon pointed around in different directions, and I couldn't overhear what the conversation was, and I saw Mr. - - Judge pull out some money.

Q Saw who?

A Mr. Holt pull out some money and sort of wave it around.

Q What did he do with the money?

A Well, he just seemed to hold it in his hand. He didn't unravel it, or anything, as far as my eyes could see - - just sort of flashed it.

BY MR. HUNT:

Q Sort of what?

A Flashed it around, held it in his hand, like this.

BY MR. JOHNSON:

Q Then what did he do?

A He sat there for a few minutes and then proceeded to go off the ramp and head east on 36th Street.

Q Describe the manner in which he went into 36th Street.

A Well, he gunned his motor a few times, then he took off, and he almost got hit by a car headed west.

Q Headed west on what street?

A On 36th Street.

Q Did you have an occasion to form any opinion as to the man's condition that you saw there - - Judge Holt - - that night?

A Well, my opinion - - I was sort of amused at him when he was - - when Mr. Shannon was talking to him, and I made a statement - -

MR. HUNT: Now, Your Honor please - -

THE WITNESS: No sir, I - -

MR. HUNT: Just a moment. I would like to object to that line of questioning. This witness was not near the car, didn't even hear the conversation, didn't talk to Judge Holt, didn't hear him say anything, didn't hear Mr. Shannon say

anything, and yet the prosecution is asking him for an opinion. He is not qualified to give an opinion.

CHIEF JUSTICE TERRELL: He can give an opinion as to what he saw.

MR. HUNT: What he saw, Your Honor, is a fact, not an opinion. Yes sir, I don't mind him stating what he saw.

CHIEF JUSTICE TERRELL: Tell the Senate what you saw and heard when you were standing there talking.

THE WITNESS: Well, I couldn't overhear any of the conversation. I can only tell by what Mr. Shannon and I were talking at the time that Mr. - -

MR. HUNT: I object to any conversation between this witness and Mr. Shannon, that took place not in Judge Holt's presence.

MR. BEASLEY: Now, if the Court please, he can say what he said there, and that's not hearsay.

BY MR. JOHNSON:

Q Well, did you form an opinion as to how far the man in the Jaguar would get, in the condition he was in?

A I made a statement to Jesse - -

MR. HUNT: If Your Honor please, that question is plainly objectionable. This witness is not qualified. He heard none of the conversation. He didn't approach the Jaguar. The premise has not been laid to qualify him as any kind of an expert. I think it is plainly irrelevant and immaterial and prejudicial to the Respondent.

CHIEF JUSTICE TERRELL: Ask the question again, Mr. Johnson.

MR. JOHNSON: Our position, Your Honor, is not that what he said is material, but the opinion which he formed.

MR. HUNT: I thought the question was to be asked again.

MR. JOHNSON: Excuse me. Did you ask to have the question again?

CHIEF JUSTICE TERRELL: Yes.

MR. JOHNSON: Will you read the question, Mr. Lee?

THE REPORTER: (Reading) "Did you form an opinion as to how far the man in the Jaguar would get, in the condition that he was in?"

CHIEF JUSTICE TERRELL: Answer the question, Mr. Witness.

A I made the statement to Mr. Shannon that I didn't think he would get very far.

MR. JOHNSON: That's all.

CROSS EXAMINATION

BY MR. HUNT:

Q When did you make that statement to Mr. Shannon?

A After the way he took off from the station.

Q Have you testified that before?

A No, I have not.

Q Why didn't you?

A I wasn't asked.

Q You were asked about every phase of this case, both before the Bar and before the House Investigating Committee, were you not?

A That's right.

Q You were given full opportunity to tell anything you knew about it?

A I was not asked my own opinion.

Q Who asked for your own opinion first? The House Managers, when they came to Miami?

A I was asked for what I saw that night. I was not asked what my conversation was.

Q Perhaps you were told that conversation between you and Mr. Shannon wouldn't be relevant.

MR. JOHNSON: I object to what Mr. Hunt thinks he may have been told.

MR. HUNT: I beg your pardon.

MR. JOHNSON: Or to any side remarks from Mr. Hunt.

MR. HUNT: Thank you, Mr. Johnson.

CHIEF JUSTICE TERRELL: Sustained.

BY MR. HUNT:

Q How long have you known Mr. Shannon?

A About five years.

Q Are you a married man?

A Yes sir.

Q Where do you live?

A I live at 8020 Northwest 10th Court. My mailing address is 87 Northwest 84th Street.

Q Now, you have a residence at 820 Northwest what?

A 10th Court.

Q Who lives there?

A Me and my wife.

Q You and your wife?

A That's right.

Q Is that what you testified before?

A I testified before that I lived - - my mailing address was referred to before. You had questioned me about that.

Q What did you say is your mailing address?

A 87 Northwest 84th Street.

Q Who lives there?

A My mother and father.

Q Where do you actually sleep?

A 8020 Northwest 10th Court.

Q How long have you been married?

A Since last April.

Q Last April?

A Yes.

Q Mr. McGonigal, you heard none of the conversation, I believe you said, between Judge Holt and Mr. Shannon?

A That's right. I heard just a little bit about a French poodle, but I asked Mr. Shannon why the Judge was goosing his motor before the take off, and that's when I inquired about him buying the French poodle in France or someplace.

Q Did Mr. Shannon volunteer that to you or did you hear it?

A Well, I heard a little bit of it, but I didn't understand the whole conversation.

Q Didn't you tell the House Investigating Committee, under oath, that you didn't hear any of the conversation?

A That's right.

Q That is right?

A That's right. I said I could not understand all of it.

Q You saw him fool around with that wad of bills and then jam them back in his pocket?

A No, I did not see him put them back in his pocket. I don't know where he put it after it lost the sight of my eyes.

Q What was he doing? Holding them in his hand?

A He held them in his hand, and whether he put them on the seat or put them in his pocket I couldn't tell.

Q But that was a wad of bills?

A That's right.

Q And he put them on the seat or back in his pocket, then took off. Is that correct?

A That's right.

Q He took off fast and went east on 36th?

A Yes sir.

Q And as he went out of the driveway he was headed in a generally southeast direction, was he not?

A Well, he had to turn left to go east on 36th Street.

Q What direction was he headed when he went out the driveway?

A Well, that would be southeasterly, a southeasterly direction.

Q Then he got on the other side of the street and then turned east?

A That's right.

Q And in getting across, a car headed west, which comes right against that driveway, does it not, had to slow down?

A There's a parking area. It's a four-lane street.

Q I can't hear you.

A I say it's a four-lane street there. There's an area to park.

Q The traffic on the filling station side of 36th Street flows west, does it not?

A Yes sir.

Q And anyone coming out of the driveway on the south side, on the 36th Street side, will buck any traffic that is coming west on 36th, will he not?

A Yes sir, he would, I mean if he pulled out in the usual procedure.

Q The usual procedure?

A That's right.

Q Would he wait a little bit?

A He just stood there gunning it, then he just took off.

Q Well, while he was gunning it didn't several cars pass him?

A Yes sir, I guess so.

Q Well, do you know whether they did or not or are you just so prejudiced you won't state?

MR. JOHNSON: If the Court please, we object to that side remark by counsel. I don't think it is proper in this proceeding to make such remarks.

CHIEF JUSTICE TERRELL: Objection sustained.

BY MR. HUNT:

Q Can you state whether or not Judge Holt waited there for some westbound traffic to get by before he started out of that driveway?

A I couldn't say. I didn't count the cars going up and down the street at the time. I was not interested in it.

Q You counted the one that had to slow down to let him by?

A That's the one that almost hit him. I noticed that.

Q Were there any more in front of that, that he went in between, to get across the street?

A No sir, I didn't see any.

Q You haven't testified to that effect before?

A I testified he almost got hit by a westbound car.

Q You testified there was other westbound traffic, too, did you not?

MR. JOHNSON: Your Honor please, we object to this method of impeachment. If he has other questions, let him read them, and read the answers to the other questions.

CHIEF JUSTICE TERRELL: Objection sustained.

BY MR. HUNT:

Q How long have you worked for Crane Brothers?

A I have worked there about seven years.

Q How long has Mr. Shannon worked there?

A About five.

Q Were you present at Crane Brothers when the police officers came up to interview you and Mr. Shannon about what happened that night?

A There was quite a few people come out and talked to us, but I couldn't tell you the names of none of them.

Q Do you recall what you told any of them?

A I didn't do the talking. I was just there listening on most occasions.

Q Did you do any talking, give any statements to any of them?

A All I gave was what I stated, that I was down at the gas station on that night.

Q You told them that Mr. Shannon did all the talking and that you knew nothing about it, didn't you, except that you saw him take off fast?

A That's right.

MR. HUNT: No further questions.

MR. JOHNSON: That's all. Return to the witness room and call Colonel Beck.

(Witness excused from stand.)

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: Several members of the Senate request a five-minute recess.

CHIEF JUSTICE TERRELL: The request is granted.

Whereupon, beginning at 2:45 o'clock p. m., the Senate stood in recess for five minutes.

CHIEF JUSTICE TERRELL: Is the Court ready to proceed? A quorum is declared present.

MR. HOPKINS: Are you ready, Mr. Chief Justice?

CHIEF JUSTICE TERRELL: Yes.

Thereupon,

JESSE A. BECK,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOPKINS:

Q Will you give us your name, please?

A Jesse A. Beck.

Q Where do you live, Mr. Beck?

A I live at 437 Northeast 82nd Street, Miami, Florida.

Q What do you do, sir?

A I am a retired Army officer and I also own and operate apartment houses.

Q You are a retired colonel of the United States Army?

A That's right.

Q On the night of December 20, 1955, did you attend a party in Miami Beach?

A I did.

Q Did you go to the Dodge home?

A I did.

Q Colonel, do you remember about what time you got to this party?

A I don't recall the exact hour. I went early and left early because I was going to another party later on.

Q Did you see Judge George E. Holt at this party?

A I did.

Q Will you explain the circumstances under which you saw him, where he was and what he was doing?

A Well, after I went through the reception line I joined a group of people and walked over to the bar to get a drink, and I saw the Judge talking to another man whom I didn't know. He was, if I remember right, about 15 feet to the left of the bar, in that direction.

Q Did you later see him during the evening?

A I did.

Q How long did you stay at the party?

A I don't remember exactly; I imagine an hour, maybe an hour and a half.

Q What was Judge Holt doing when you saw him the first time?

A Will you repeat that please?

Q What was Judge Holt doing at the time you saw him the first time?

A He was talking to this chap.

Q Was he drinking at that time, or not?

A He had a glass in his hand. I don't recall seeing him take a drink out of it.

Q And what was he doing when you saw him on the second occasion?

A I went to the bar for a second drink, and I saw the Judge at the bar.

Q What is your opinion as to whether or not he was under the influence of any kind of intoxicants at the time you saw him?

A Well, I'm not an expert on those matters. The Judge apparently had had some drinks.

Q Could you give us an opinion as to the extent and tell us what he was doing and how you formed your impression?

A Well, I noticed him at the bar there. His face was a little flushed and his hand seemed a little unsteady.

Q Did you form the opinion at that time that he was under the influence of intoxicating liquor?

A Well, he apparently had had some drinks. I can't say whether he was drunk or not.

Q Colonel, was there any particular reason for you recalling this occasion?

A Well, yes. I attend a good many parties. The only thing that made me recall it, I was rather surprised to see a man of his position and age apparently having had as many drinks as he had as early in the evening.

MR. HOPKINS: You may inquire.

CROSS EXAMINATION

BY MR. HUNT:

Q Colonel Beck, how long have you lived in Florida?

A I've been a resident of Florida since 1947.

Q Where did you come from?

A I was originally born in the State of Kentucky. I came direct when I retired from the service - - when I retired, March 31st, I came back to Miami to stay.

Q With whom do you reside at 437 Northwest 87th Street?

A I beg your pardon?

Q With whom do you reside at your place of residence?

A I reside alone.

Q You are alone?

A That's right.

Q With whom had you attended the Dodge party that evening?

A I was with Dorothy White.

Q Pardon?

A A lady by the name of Dorothy White.

Q Does Miss White live in Miami Beach or in Miami?

A She lives in Miami Beach.

Q Well, now, had you previously known Mr. and Mrs. Dodge?

A I had met them several times at different parties.

Q Well, who was invited to the party specifically, you or Mrs. White?

A In this instance, Mrs. White and I had both been invited to a dinner party. She was invited to the Dodge party, and she called Mrs. Dodge and had her invite me to the cocktail party, which we attended before we went to the dinner party.

Q Will you try to recall the approximate time you arrived at the Dodge party?

A It's rather hard for me to say. It's been so long ago, but we went early and I believe it to have been somewhere around about seven o'clock.

Q Around seven o'clock?

A Somewhere in that vicinity.

Q Now, about what time would you say it was that you saw Judge Holt?

A I saw him, I would say, within five minutes after I passed through the receiving line.

Q Did you also see Mrs. Holt?

A I don't recall. There were other people around.

Q Do you know Mrs. Holt?

A I do, at sight.

Q You had met her before?

A Yes, I had met the Holts at different times.

Q You had met Judge Holt before?

A I had.

Q Then you would say it was - - you would say somewhere around seven-fifteen that you first observed him?

A That's the best of my memory. After all, it's been a long time.

Q Can you fix the approximate time that you and Mrs. White left the party that evening, the Dodge party?

A It's rather hard. I think somewhere around eight o'clock. It may have been fifteen minutes after or it might even have been as much as eight-thirty.

Q Somewhere between eight and eight-thirty?

A I think that's—well, we went to a dinner party over at Miami Shores that night.

Q Now, the first time you saw Judge Holt, with how many persons was he talking? Only one?

A The person he seemed to be talking to was a man. Who he was I don't know.

Q Pardon?

A He was talking to a man at the time I saw him. There were other people around, but whether they were all in the same party I don't know.

Q Quite a number of people around the premises, weren't there?

A Well, there was a large crowd there eventually, yes.

Q About how many guests did the Dodges entertain that evening?

A Well, they were coming and going. I don't know. I would try to guess at, maybe, three hundred.

Q It was a pretty big jamboree, both for the college age crowd and some of the older friends of Mr. and Mrs. Dodge, was it not?

A It was a mixture, yes.

Q And you say you saw Judge Holt talking to this man, and he had a glass in his hand?

A Yes.

Q Did you see many men around the party who didn't have a glass in their hands?

A I didn't see very many. I would have been surprised if I had.

Q Don't people usually go to a cocktail party and sip a cocktail or two?

A That's right.

Q Just like, going fishing, you go to fish?

A That's right.

Q Now, the second time you saw him, you say he was nearer the bar. Is that correct?

A That's right.

Q Who was he talking to then?

A As I recall, it was the same man I had seen him talking with before. I don't know who he was.

Q You never did see him in mixed company, talking with ladies and gentlemen; you just saw him talking with a man?

A That's right, at that particular time. I was busy with my own friends and I wasn't paying any particular attention.

Q Did he have a glass in his hand that time?

A He did at the bar, yes.

Q Was he laughing and joking and his face was red, or just describe what gave you the conclusion you have testified to?

A Well, I came to the bar and got a drink, and he was there with the other chap. I noticed at the time that his face was flushed and his hand seemed a little unsteady.

Q Was he cracking jokes, or loud or jovial, or what was his oral demeanor?

A As far as I recall, I think I spoke to him or some remark was made between us - - nothing in particular. He was talking to the other man more than he was to me.

Q Did you carry on any conversation with him?

A No.

Q Could you hear what he was talking to the other man about?

A No, I didn't pay any particular attention to that. If I recall right, there was some remark he either made to me, or something or other, as people do at a party - - polite people at a party. It's usual and quite customary for some remark to be made, some trivial remark.

Q Well, did he make any remark that led you to believe that - -

A No.

Q That he had had too many drinks?

A No.

Q Did you see him walk?

A No, I didn't.

Q Did you smell his breath?

A I did not.

Q Could you have smelled his breath if you had been next to him?

A That is a question that is hard to answer.

Q But you gained the impression from his flushed face and an unsteadiness of hand that he had quite a few drinks. Is that correct?

A That was my impression.

Q And that, as best you can figure, was around eight o'clock?

A No, that would be somewhere between - - I would say between seven and eight. That was probably, I would say, a quarter of eight - - something like that.

Q Do you know any other circuit judges?

A No, I don't.

Q Of the Eleventh Circuit?

A I don't know any of them.

Q Then you can't state whether you saw any others over there that night?

A I cannot.

MR. HUNT: No further questions.

MR. HOPKINS: You can come down, sir.

CHIEF JUSTICE TERRELL: Just a minute. Senator Johns sends up this question:

"I would like to know what was the condition of the witness on that occasion. How many drinks had he taken?"

Answer that, Colonel Beck.

BY MR. HUNT:

Q Approximately how many drinks had you taken?

A I had had, to the best of my memory, two drinks before I left the Dodge party.

Q What were they?

A Scotch.

MR. HUNT: All right.

MR. JOHNSON: You may come down.

Return to the witness room, please, Colonel Beck.

(Witness excused from stand.)

Thereupon,

ROBERT HERLOFSON,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. JOHNSON:

Q Will you tell the Senate your name?

A Robert Herlofson.

Q How do you spell that, Mr. Herlofson?

A H-e-r-l-o-f-s-o-n.

Q What is your business, Mr. Herlofson?

A I am president of the Holloway Coffee Company.

Q What type of business is that?

A We are wholesale merchants.

Q Where is your main office located?

A Our head office is in New York.

Q Where do you live?

A In Miami.

Q During the war did you have occasion to serve in the Navy, the U. S. Navy?

A Yes, I was a naval officer.

Q What rank did you hold?

A Lieutenant commander.

Q Mr. Herlofson, did you have occasion to be at the Dodge party on the night of December 20, 1955?

A Yes sir, I was.

Q Did you go there with someone or alone?

A I went alone.

Q Approximately how long was it before you left the party? Approximately what time did you leave the party, the best you can remember?

A I would say I left the party about - - between seven- and seven-fifteen, to the best of my recollection.

Q Where did you go then?

A Well, I went on to the Post and Paddock, to dinner with a party of friends.

Q The Post and Paddock - - is that a restaurant in Miami?

A Yes, it is.

Q Did you have occasion to return to the party after having gone to the restaurant known as the Post and Paddock?

A Yes. I went back to the party, I would say about a quarter to eight, I imagine.

Q Could you be exact about that time?

A No, I can't.

Q Will you tell the Senate whether or not, when you returned to the party, you saw Judge George E. Holt?

A It goes against the grain to have to discuss a private party, but I did see him.

Q You are under oath and you are under subpoena. Did you see Judge Holt when you returned to the party?

A Yes, I did.

Q Will you please state to the Senate exactly what you saw concerning Judge Holt when you returned to the Dodge party that night?

A As I returned to the party I saw Judge Holt leave this party.

Q Describe the manner in which he left the party.

A He left the party with the assistance of two men one under each arm, helping him.

Q Where did they take him?

A They put him in a limousine that was waiting.

MR. JOHNSON: That is all.

CROSS EXAMINATION

BY MR. HUNT:

Q What time was that, Mr. Herlofson?

A I should judge around a quarter to eight, close to eight o'clock, sir.

Q A quarter till eight or eight?

A To the best of my recollection.

Q Could it have been eight-thirty?

A I couldn't say.

Q Could it have been nine?

A I don't know. I think it was around eight o'clock - - eight-fifteen or eight o'clock.

Q Was Mrs. Holt present?

A No, I didn't see her.

Q Who was in the limousine towards which he was assisted? Two other men?

A There were two men there helping him to the limousine.

Q And who was in the limousine towards which he was being assisted?

A I didn't notice.

Q Did you see any occupant in the limousine?

A No, I did not.

Q Who were the two men assisting him?

A That I don't know.

Q Had you ever seen them before?

A No.

Q At no party had you ever been introduced to them before?

A No, I don't think so.

Q Do you know Judge John Prunty?

A Yes, I know him by sight now.

Q Did you see him that evening?

A I didn't know him then, no.

Q Well, you know him by sight now?

A Yes.

Q Did you see him that evening?

A No, I don't believe I did.

Q And you have fixed this around eight p.m. Is that correct?

A I should judge eight p.m., yes.

Q Do you know George Earl Brown?

A Yes, that's right.

Q Did you see George Earl at a number of these parties on the Beach?

A Not at that party in question, no.

Q You didn't see him that night?

A No.

Q Have you discussed this case with George Earl Brown since he testified before the House Investigating Committee?

A Yes. I saw Brown on Flagler Street one morning.

Q And were you called up to the Miami Springs Villas Hotel by the House Managers here two or three weeks ago to discuss the case?

A No, I never was.

Q Were you called down to the courthouse by them to discuss the case?

A No, I have never been interrogated about this case until I got here.

Q Did George Earl Brown discuss the facts with you?

A No, he did not.

Q With whom have you discussed the facts that you have related here today?

A Only with Mr. Johnson here.

Q And when was that?

A That was on Friday, I think.

Q Here in Tallahassee?

A In Tallahassee, yes sir.

Q And, to your knowledge, no one knew before that that you had seen Judge Holt being assisted from the Dodge party?

A Well, I might have discussed it with some friends of mine in Miami at the time—at the time it happened.

Q Who were you with when you reentered the Dodge party and saw this?

A I was alone.

Q Pardon?

A I was alone.

Q Had you gone out to dinner with anyone or were you alone then?

A No. I eventually went out to dinner, yes.

Q Pardon?

A I went out to dinner afterward.

Q Well, where had you gone upon leaving the Dodge party?

A I went to the Post and Paddock.

Q Pardon?

A I went to the Post and Paddock.

Q How long did you stay at the Dodge party when you returned?

A I would say five minutes.

Q What was your purpose in returning?

A I went back to fetch a bag that belonged to a lady that happened to be in my party.

Q And did she remain at the Post and Paddock?

A Yes.

Q And whose bag was it?

A I can't remember?

Q That you don't remember?

A I don't remember.

Q How many were in the party at the Post and Paddock?

A I don't remember, sir.

Q See if you can't refresh your recollection and remember.

A No, it was a long time ago. I don't remember.

Q You don't recall a one of them?

A No.

Q Do you recall seeing anyone else leave the Dodge party?

A At the time?

Q Yes.

A No, just Judge Holt and these two gentlemen helping him out.

Q You didn't see Mrs. Holt anywhere around?

A No, I didn't.

Q You didn't see Judge or Mrs. Prunty?

A I didn't know them at the time, so I didn't.

Q Have you ever had any litigation in Judge Holt's court?

A No, I never had any.

Q Have you had occasion to discuss this case with anyone except Mr. Johnson?

A Not officially, no.

Q What?

A Not officially, no.

Q Well, unofficially?

A Unofficially?

Q Yes.

A I probably did.

Q With whom?

A A friend of mine in Miami.

Q Name the friend.

MR. JOHNSON: If the Court please, we fail to see the materiality of this line of questioning; therefore, we object.

MR. HUNT: Your Honor, this witness has exhibited a very bad recollection in certain areas, and I think I have the right to test it on cross examination.

CHIEF JUSTICE TERRELL: If the witness remembers, he can testify who it was. If he doesn't remember, he is not required to.

THE WITNESS: I don't hear Your Honor.

BY MR. HUNT:

Q What is the answer?

A I didn't hear what the Judge said.

Q The question is, with whom have you discussed this case, officially or unofficially?

A I might have discussed it with some friends. I can't remember who. It was a long time ago.

Q Well, let's take a recent vintage discussion. Have you discussed this case with anyone except Mr. Johnson in the past two or three weeks?

A Yes, with Colonel Beck.

Q Only Colonel Beck?

A That's right.

Q Do you and Colonel Beck go to parties often together?

A No. I never met Colonel Beck until I came to Tallahassee.

Q Pardon?

A I never met Colonel Beck until I came to Tallahassee.

Q And was it here that you discussed it with him?

A Yes.

Q You haven't had a discussion in Miami with anyone?

A No.

Q Do you know why they brought you here to Tallahassee?

A Well, I could guess, yes.

Q Pardon?

A Yes, I surmise, although I don't know officially. I was never consulted about it, I didn't come here of my own free will, I am sure.

Q You were alone when you saw Judge Holt leave the Dodge party?

A Yes, I was.

Q And until you arrived in Tallahassee you had not discussed it with anyone?

A Oh, I had at the time, yes.

Q At the time?

A At the time I saw him.

Q Can you give us the name of anyone with whom you discussed it at the time?

MR. BEASLEY: Now, if the Court pleases, Judge Hunt has gone over and over that same question, time and again. The witness has given him his best recollection about it. We object to it any further.

MR. HUNT: The witness can answer, Your Honor.

A I can't remember the names of the parties I discussed this with in 1955, sir, but I did probably discuss it with somebody at that time.

BY MR. HUNT:

Q You don't have any idea why your presence has not been requested by any grand jury or any investigation of The Florida Bar, do you?

MR. JOHNSON: We object to that, if Your Honor please, as irrelevant and as calling for a conclusion.

CHIEF JUSTICE TERRELL: Objection sustained.

MR. HUNT: We would like to continue this witness under subpoena.

MR. JOHNSON: Do you have any further questions at this time?

MR. HUNT: No.

MR. JOHNSON: Thank you, Mr. Herlofson. You may return to the witness room.

(Witness excused from stand.)

MR. BEASLEY: If the Court pleases, we wish to offer in evidence at this time the court file in the case of First Federal Savings and Loan Association against Joseph Brower.

MR. HUNT: Your Honor please, there has been no testimony whatever in connection with that file. I would like to know the purpose of the offer.

MR. BEASLEY: The purpose of it is to show that L. J. Kurlan was appointed one of the receivers in that case, and it will be followed by other cases and by further testimony concerning it.

MR. HUNT: What is the name of the case?

MR. BEASLEY: First Federal Savings and Loan Association of Miami, a corporation, against Joseph Brower.

MR. HUNT: Was that case before Judge Holt?

MR. BEASLEY: Judge Holt signed the order appointing the receiver.

MR. HUNT: No objection.

(Whereupon said court file was received in evidence as Managers' Exhibit 35.)

MR. BEASLEY: For the benefit of the Senate, this phase of the case comes under I(b)1, I(b)4, 5, 6 and 7.

We now wish to offer in evidence an order appointing a receiver in the case last mentioned, and ask the Secretary of the Senate to read the part of the order appointing -- if that is satisfactory to you, Judge -- appointing J. P. -- what's his name? -- J. P. Didrence and L. J. Kurlan as receivers. I ask the Secretary to read that part of it.

MR. HUNT: Your Honor, if any portion of the order is to be read I think the whole order should be read.

MR. BEASLEY: Okay. Read the whole order, then. I was just trying to save time. You can read the whole order.

MR. HUNT: Is this the same case?

MR. BEASLEY: Yes sir.

CHIEF JUSTICE TERRELL: Read the entire order, Mr. Secretary.

(Whereupon, Mr. J. Birney Linn, Assistant to the Secretary, read said order, as immediately hereinafter set out.)

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR DADE COUNTY, FLORIDA.

IN CHANCERY.

No. 165512-A

FIRST FEDERAL SAVINGS
AND LOAN ASSOCIATION OF
MIAMI, A Corporation
organized and existing
under the laws of the
United States of America,

Plaintiff,

v.

JOSEPH BROWER, et al,

Defendants.

ORDER APPOINTING RECEIVER

This cause coming on to be heard this day upon the sworn bill of complaint of the plaintiff herein on file, and upon a sworn affidavit supporting the motion of the plaintiff for the appointment of a Receiver in accordance with and pursuant to the prayers contained in said bill of complaint, and it appearing to the court that, due to the extreme urgency of the matter and to fully preserve and protect the interests of the plaintiff herein, no notice was required to be given to the defendants herein, and the court having heard the argument of counsel for the plaintiff and being further and fully advised in the premises, it is, upon consideration,

Ordered, adjudged and decreed as follows:

That J. Jay Didrence and L. J. Kurlan be and they are hereby appointed Receivers of the property and premises described in the plaintiff's bill of complaint herein on file, which said property and premises is situated in the County of Dade, State of Florida, and is more particularly described as:

All that part of the south 100 feet of the north 300 feet of Lot 3 lying west of Highway A-1-A, formerly known as State Road No. 140, Tatum's Ocean Park, according to the plat thereof recorded in Plat Book 10, page 64 of the Public Records of Dade County, Florida, together with all the furniture, furnishings, fixtures and replacements thereof of any nature whatsoever, which may now or may hereafter be located or situated on the above described property;

And it is further ordered, adjudged and decreed that the

said Receivers are hereby authorized, directed and empowered to enter upon and receive, recover and take complete, entire and exclusive possession of said property and premises, to collect the rents, issues and profits thereof, and to rent and let the same upon such terms as they deem best; and it is further

Ordered, adjudged and decreed that the Receivers shall preserve, maintain and defend such possession and such property and estate and that the defendants and all persons claiming under them are hereby directed to deliver to said Receivers the same property and premises, and to refrain from molesting or interfering with said Receivers in the performance of their powers and duties hereby invested in them; and it is further

Ordered, adjudged and decreed that the said Receivers hereby appointed shall have and are hereby given all the usual and necessary and incident powers of Receivers for the purpose of managing and maintaining said property and premises, including the power to make such repairs to said property as in their judgment are necessary to attain or retain tenants for the same, and the said Receivers shall be at liberty to apply to this Court at any time during the pendency of this cause for further directions in the premises; and it is further

Ordered, adjudged and decreed that the said Receivers shall enter upon the performance of his duties as herein prescribed, and are granted two days from date to file herein their bonds in the sum of \$50,000 - - each in the sum of \$50,000 - - with good and sufficient surety, to be approved by the Clerk of this Court, conditioned upon the faithful performance of his duty as such Receiver.

Done and ordered in chambers at Miami, Dade County, Florida, this the 18th day of January, A. D., 1954.

(Signed) George E. Holt
Circuit Judge

Filed this 18th day of January, A. D., 1954; recorded this 19th day of January, 1954, in Chancery Book 1113 on page 45.

E. B. Leatherman, Clerk
Circuit Court.

MR. HUNT: Your Honor, we reserve the same objection that we have heretofore with respect to the prior term situation.

CHIEF JUSTICE TERRELL: All right.

MR. BEASLEY: We want now to offer in evidence, under the same category, the court file in the case of Paul Perriau and Zoe Ann Perriau versus Irene Faust Czaplicki. That's No. 38.

MR. HUNT: Is that the Salem Inn case?

MR. BEASLEY: No. That is File No. - -

MR. HUNT: I believe you will find that that is the Salem Inn case. Do you have the entire file?

MR. BEASLEY: Yes, we have the entire file. That will be No. 37.

(Whereupon the copy of order appointing receivers in the Brower case was received in evidence as House Managers' Exhibit 36 and the court file in the case of Perriau versus Czaplicki was received in evidence as House Managers' Exhibit 37.)

MR. BEASLEY: We would like to offer in evidence at this time photostatic copy of the order, signed by Judge George E. Holt, appointing L. J. Kurlan as Receiver in that case.

MR. HUNT: Was the whole file offered?

MR. BEASLEY: The whole file was offered.

MR. HUNT: And now you are offering separately a different portion of it?

MR. BEASLEY: We are just offering a certified copy of the final order, so it can be read by the secretary. We have

no objection to him reading the original order, if you want him to.

MR. HUNT: We have no objection, Your Honor.

(Whereupon said copy of order appointing Receiver in the Perriau case was received in evidence as House Managers' Exhibit 38.)

MR. BEASLEY: Read the order. Well, if the Court please - -

CHIEF JUSTICE TERRELL: If counsel for Respondent has no objection, is there any special reason for it to be read?

MR. BEASLEY: I don't see any special reason, Your Honor. I'll be glad to state as to what each of these orders has to do with reference to Kurlan.

MR. HUNT: You can offer them all in and not read any of them.

MR. BEASLEY: Well, I'd like for the Senate to know what they are. I will just simply state that that is an order entered by Circuit Judge George E. Holt on the 25th day of October, 1954, appointing L. J. Kurlan as Receiver in the case of Paul Perriau and Zoe Ann Perriau against Irene Faust Czaplicki.

MR. HUNT: I have no objection to the court file.

MR. BEASLEY: All right. Now at this time we would like to offer in evidence the court file in the case of Eleanor A. Basso versus Harold J. Basso and St. Lucie River, Incorporated, a corporation.

MR. HUNT: Are you introducing the court file?

MR. BEASLEY: Yes, sir.

MR. HUNT: No objection.

(Whereupon said court file in the case of Basso versus Basso, et al, was received in evidence as House Managers' Exhibit 39.)

MR. BEASLEY: And, to keep from searching out the court order in there, Judge, we have a photostatic copy of the decree - - of the order entered by Circuit Judge George E. Holt on the 25th day of May, 1955, in which he appointed L. J. Kurlan and W. T. Price as Receivers in that case.

MR. HUNT: Your Honor please, counsel's idea of picking out one of possibly many orders, to introduce separately, and to which to call the attention of the Senate, I believe is improper. I think the Senate is perfectly able to examine the court file for itself. I don't think it is proper to offer pieces of it. We have no objection to the whole thing going before the Senate.

(The copy of order appointing Receiver in the Basso case was received and marked in evidence as House Managers' Exhibit 40.)

MR. BEASLEY: Well, the only way, Judge, that we can get these specific things before the Senate is just take them out. We can't afford to read that whole court file to the Senate.

MR. HUNT: Why don't you just state what it is. I'll take your word.

MR. BEASLEY: Well, that's what I did.

MR. HUNT: I hadn't objected.

MR. BEASLEY: All right. I thought you objected to it.

We now would like to offer in evidence the court file in the case of Mercantile National Bank of Miami Beach, a corporation, versus J. Alex Malloy, and others.

MR. HUNT: Which case is that, Mr. Manager?

MR. BEASLEY: That is the case of Mercantile National Bank of Miami Beach, a corporation, against J. Alex Malloy and others.

MR. HUNT: Was that an appointment of Judge Holt?

MR. BEASLEY: No, that wasn't an appointment by Judge Holt, but the fee was allowed by Judge Holt to Colonel Kurlan, L. J. Kurlan.

MR. HUNT: Who appointed Mr. Kurlan?

MR. BEASLEY: Wiseheart.

MR. HUNT: We have no objection.

(Whereupon the court file in said case of Mercantile National Bank versus Malloy was received in evidence as House Managers' Exhibit 41.)

MR. BEASLEY: Will you stipulate in that case, then, Judge Hunt, that an order was entered by Circuit Judge George E. Holt, dated the 1st day of December, 1955, allowing L. J. Kurlan a receiver's fee in the sum of \$8,500?

MR. HUNT: That appears in the order, does it?

MR. BEASLEY: Yes sir. I have a photostatic copy. Is that satisfactory?

MR. HUNT: I have no objection to the entire file in the case which you mentioned.

MR. BEASLEY: Well, will you stipulate that that order is in the file? If not, I will have to have it read to the Senate.

MR. HUNT: I will take your word for it.

MR. BEASLEY: All right.

Now we wish to offer in evidence at this time the court file in the case of Henry Elliott versus Mayflower Associates, Inc.

(Whereupon said court file in the case of Elliott versus Mayflower Associates, Inc., was received in evidence as House Managers' Exhibit 42.)

MR. HUNT: Mr. Chief Justice, in an effort to shorten the procedure, we have no objection to any and all records brought up here, either from the Dade County Circuit Court or the Probate Court, going in evidence.

MR. BEASLEY: Then, in this file that I just offered in evidence - -

CHIEF JUSTICE TERRELL: Since Judge Hunt has no objection, why don't you just make a list of those and offer them. You just want to get the substance of it in, don't you?

MR. BEASLEY: Yes sir. We have a list of them made out here, Your Honor. In that file there appears an order dated the 15th day of April, 1954, signed by Circuit Judge George E. Holt, appointing L. J. Kurlan as Receiver.

MR. HUNT: What case is that, Mr. Manager?

MR. BEASLEY: That is Henry Elliott versus Mayflower Associates, Inc.

MR. HUNT: Is that the Mayflower Hotel or the Variety Hotel?

MR. BEASLEY: The Variety Hotel, I think.

MR. HUNT: How much bond was the receiver put under in that case?

MR. BEASLEY: If I can find it, now. It was a \$5,000 bond. In that case Judge Holt entered an order allowing a \$5,000 receivership fee.

Then we have the case of First Federal Savings and Loan Association of Miami, a corporation, versus Joseph Brower, and we would like to offer that file at this time in evidence, if you have no objection to it.

(Whereupon said court file, First Federal Savings and Loan versus Brower, was received in evidence as House Managers' Exhibit 43.)

MR. HUNT: That last file, was that the Variety Hotel?

MR. BEASLEY: The last file - - the one before the last was the Variety Hotel.

MR. HUNT: Can you state whether or not it shows the mandate of the Supreme Court affirming Judge Holt's decision?

MR. BEASLEY: I can't tell you that. I will be glad for you to examine the file.

In the last case, Judge Holt entered an order on the 18th day of January, 1954, appointing J. Jay Didrence and L. J. Kurlan as Receivers.

MR. HUNT: Which case was that, please, sir?

MR. BEASLEY: The last case that we entered there. That's the case of First Federal Savings and Loan Association of Miami versus Joseph Brower.

MR. HUNT: Aren't there three files styled very much the same way which make up what are referred to as the Belmont cases?

MR. BEASLEY: We only have two files in it.

MR. HUNT: There should be three. I believe you should have three First Federal files.

MR. BEASLEY: We only have two.

Call William Farr.

Call Dan O'Connor instead of William Farr.

Thereupon,

DAN O'CONNOR,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BEASLEY:

Q What is your name?

A Dan O'Connor.

Q Mr. O'Connor, where do you live?

A In Ft. Lauderdale.

Q What is your occupation?

A Salesman.

Q For who?

A At the present time?

Q Yes. Well, I want you to get back to July 29, 1955.

A July what?

Q July 29, 1955.

A At that time I was with Orwell Transfer, in Lauderdale.

Q Well, in July, 1954?

A In '54 I was with Farr Tours, in Miami Beach.

Q At that time did you handle an application by L. J. Kurlan and Mrs. Kurlan and Circuit Judge George E. Holt and Mrs. Holt and their son for a trip abroad?

A I arranged an itinerary for them.

Q Did they pay the money to you?

A No sir.

Q To whom did they pay the money?

A That I don't know.

Q Did you communicate with Kurlan about the matter, L. J. Kurlan?

A Yes, I did.

Q L. J. Kurlan worked out the entire details with you, did he?

A Yes.

Q Circuit Judge George E. Holt - - did he ever visit your office to work out any of the details?

A Not with me, not to the best of my knowledge.

Q Did you ever send to Circuit Judge Holt any papers to be signed?

A No sir.

Q He didn't know anything about that part of it?

A No sir.

Q Do you know what date they left on the trip?

A Not specifically.

Q Do you know about what date they left on it?

A As near as I can recall, it would have been around the early part of July.

Q Do you recall how long they were gone on the trip, approximately?

A Approximately until about the first week in September.

Q In your file -- this is apparently a photostatic copy of your file, from your office (exhibiting documents to witness).

A Yes sir.

Q I would like for you to examine that file and see if you can tell the Senate when they left and when they returned and who all went on the trip?

A The itinerary was made up requiring departure for July 29th and return on September 5th.

Q I believe you testify that you made up the itinerary?

A That's right.

Q Can you state what places the itinerary shows they visited in Europe -- that is, Judge Holt and Mrs. Holt and Mr. and Mrs. Kurlan and Judge Holt's son?

A Well, according to the itinerary here, it was Lisbon, Madrid, Algiers, Nice, Rome, Florence, Venice, Interlaken, Lucerne, Zurich, Frankfurt, Berlin, London, Paris, and return to New York.

MR. BEASLEY: That is all.

MR. HUNT: We have no questions, Your Honor.

MR. BEASLEY: Is it agreeable that this witness be released?

MR. HUNT: I think so.

MR. BEASLEY: All right. Thank you.

(Witness excused.)

Thereupon,

ESTHER FRANK,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

MR. HUNT: Your Honor, may I assume that the prior term objection is reserved to all these matters which occurred prior to January, 1955?

CHIEF JUSTICE TERRELL: Yes.

DIRECT EXAMINATION

BY MR. BEASLEY:

Q Will you state your name, please?

A Esther Frank.

Q Where do you live?

A Miami Beach.

Q Where do you work?

A Farr Tours.

Q Is that in Miami Beach?

A Yes sir.

Q In July of 1954 did you have something to do with the arrangement of a trip by Judge Holt and Mrs. Holt and a Mr. Kurlan?

A Not with the arrangement, no.

Q Did you have anything to do with handling the money?

A Yes sir.

Q What did you have to do with it?

A Well, it was given to me.

Q Did you make up the deposit slip?

A No sir.

Q Did you bring with you or would you know of the deposit slip if you were to see it, from that agency?

A Yes sir.

Q (Handing document to witness) Do you have a photostatic copy of a deposit slip from Farr Tours?

A Yes sir.

Q What does that concern?

A It consists of the daily deposit.

Q The daily deposit?

A Yes.

Q Now, can you tell what monies were deposited on that day?

A Well, as to the individual checks, yes sir.

Q All right. State what they are.

A You mean you want me to read them all?

Q Well, do you have a check in there from Judge Holt?

A Yes sir.

Q George E. Holt?

A Yes sir.

Q How much?

A \$199.60.

Q Now, do you have one in there from L. J. Kurlan?

A There are two of them here, one for \$114.33 and one for \$1,680.30.

Q One for \$1680.30?

A That's correct.

Q And for a hundred and how much?

A \$114.33.

Q And then the one from Judge Holt is for how much?

A \$199.60.

Q Do you know anything about anybody else paying any money to Farr Tours for that trip by those five people?

A No sir.

Q You have there a photostatic copy of what purports to be a ticket coupon?

A It's not a ticket coupon. It's a form made out for a part-pay plan.

Q For a part-pay plan?

A That's right.

Q Was that in the Holt trip?

A Yes sir.

Q By Kurlan and Holt?

A No, just for Judge Holt.

Q Just for Judge Holt?

A Yes sir.

Q How much money does it show that Judge Holt paid there?

A In cash?

Q Yes.

A \$676.20 and \$199.60.

Q Do you know who paid the cash?

A Who paid it to me?

Q Yes.

A Judge Holt was in the office.

Q Did he give you the cash?

A He must have given me the cash, because we only have a check in the deposit for \$199.60.

Q But you have a check there from Mr. Kurlan for \$1600 and some odd dollars?

A That's right.

MR. BEASLEY: That is all.

CROSS EXAMINATION

BY MR. HUNT:

Q Do you recall Judge Holt over there at the time of the final payment with Commander Kurlan?

A He was in the office, yes.

Q Do we understand that your records show a check from -- I assume Mrs. Holt -- for \$199.60?

A That's right.

Q As one item?

A That's right.

Q Do your records also reflect \$676.20 in cash?

A That's right.

Q Paid on the Holt account?

A That's right.

Q For Judge and Mrs. Holt and their son?

A That's right.

Q Do your records likewise reflect that Judge and Mrs. Holt financed the balance of the charges through the Pan American pay-as-you-go plan at so much a month?

A Yes, for \$1700.

Q How much?

A \$1700.

Q Even?

A That's right.

Q \$1700 in addition to the sums that you have already testified about?

A That's right.

Q Now, how is that paper handled?

A Well, this is signed and given to the air line and a bank buys it from the air line and pays the air line the full amount of money.

Q By whom is it signed?

A By Judge Holt.

Q And the commitment is to pay how much a month?

A \$30.30.

Q Per month?

A No, no, I'm wrong -- \$158.66.

Q Per month?

A That's right.

Q For how many months?

A 12 months.

Q And then the total cost to Judge and Mrs. Holt of the trip, of the total cost, \$1700 was financed on a pay-as-you-go plan at the rate of \$158.66 a month?

A That's right.

Q And \$676.20 was in cash?

A Yes sir.

Q And you had the Holt check for \$199.60?

A Yes sir. There was also another cash item that he paid.

Q Do you recall what that was?

A For his hotel reservations.

Q How much was that?

A I don't have it with me. I think it was about two hundred and some dollars.

Q So that would have made a total cash payment of eight hundred and something. Is that correct?

A That's right.

Q And then the total cost would have been eight hundred dollars plus, in cash; \$1700 in pay-as-you-go financing?

A That's right.

Q And a check for \$199.60?

A That's right.

Q Do your records reflect that either Judge Holt paid any part of Commander Kurlan's cost --

A No.

Q Or that Commander Kurlan paid any part of Judge Holt's cost?

A No.

MR. HUNT: No further questions.

MR. BEASLEY: That is all we have for this witness and, with your permission, we would like to excuse her.

MR. HUNT: I think she is entitled to be excused.

(Witness excused.)

Thereupon,

LeROY ADKISON,

a witness called and duly sworn in behalf of the House Managers, was examined and testified as follows:

MR. HUNT: Your Honor, I feel that I should object. I don't know why.

DIRECT EXAMINATION

BY MR. BEASLEY:

Q Give your name, please.

A LeRoy Adkison.

Q What official position do you hold?

A Senate Sergeant-at-Arms.

Q Were you given a subpoena for one Louis J. Kurlan, 1659 Washington Avenue, Miami Beach, Florida?

A Yes sir.

Q Were you able to serve that?

A No sir, I wasn't able to serve it.

Q Do you recall why, or what search you have made for him?

A Well, we just - - we couldn't find where he was. We knew he was out of town, and my deputy with me - - we called several people and we weren't able to locate him anywhere.

Q Did you learn where he is?

A No sir, we never did learn.

Q Did you likewise have a subpoena for one Sidney W. Langer, 4209 Granada Boulevard, Coral Gables, Florida?

A Yes sir.

Q Were you able to find him?

A No sir.

Q To serve him?

A No sir.

Q Did you make some memorandum as to your search?

A Well, we called the house, called the telephone people and they said the phone was discontinued. That's all we could find on him. I believe that's the one.

MR. BEASLEY: We have no further questions.

CROSS EXAMINATION

BY MR. HUNT:

Q Did you learn that Mr. Kurlan had been in Casablanca since the time he testified in Tallahassee before the House Investigating Committee?

A I believe I did learn something about him being in Casablanca or somewhere over there, yes sir. I heard that later.

Q Did you get any information as to Mr. Langer's whereabouts?

A No sir.

MR. HUNT: No further questions.

MR. BEASLEY: You can come down.

(Witness excused from stand.)

MR. BEASLEY: I wonder now if the prosecution could have a short recess?

CHIEF JUSTICE TERRELL: How much time do you want?

MR. BEASLEY: Ten minutes.

CHIEF JUSTICE TERRELL: The request is granted. The Senate will be at ease for ten minutes.

Whereupon, the proceedings of the Senate were suspended, beginning at 4:00 o'clock p.m., for ten minutes.

CHIEF JUSTICE TERRELL: Are you ready, Mr. Manager? Order in the Court. A quorum is declared present.

MR. BEASLEY: Mr. Chief Justice, and Members of the Senate - - or members of the Court - - I feel that at this time, out of fairness to the Respondent, we should make the following statement:

The Managers on the part of the House abandon I(b)2 of the Bill of Particulars - -

MR. HUNT: What is that I(b)2?

MR. BEASLEY: I(b)2. That is on page five. That is relating to Sidney W. Langer.

MR. HUNT: Page what?

MR. BEASLEY: That is on page five of the Bill of Particulars.

MR. HUNT: You haven't got the Senate Journal number, have you?

MR. BEASLEY: No. That is I(b)2. We abandon that because Langer was unserved. We were unable to serve him.

We abandon Specification I(d)8. We were unable to prove that specification.

CHIEF JUSTICE TERRELL: I(d)8?

MR. BEASLEY: I(d)8 - - d as in "dog."

We abandon I(e)1, because Mr. Rothenburg was sick and, of course, we had the letter from his physician saying that he was unable to make the trip up here. That is I(e)1, the matter relating to Rothenburg.

CHIEF JUSTICE TERRELL: I(e)1?

MR. BEASLEY: Yes sir.

CHIEF JUSTICE TERRELL: That is I(e)1 and I(d)8.

MR. BEASLEY: And I(b)2.

CHIEF JUSTICE TERRELL: I(b)2.

MR. BEASLEY: Yes sir.

Mr. Chief Justice and members of the Court, with that last statement, the prosecution rests.

MR. HUNT: Mr. Chief Justice, the Respondent will have a motion to present to the Senate and, due to the lateness of the hour and our desire to present it as succinctly as possible, we would like overnight for preparation and to present it at the opening of the Court tomorrow morning, if that is agreeable.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I move that we do now adjourn.

(The motion was seconded from the floor.)

CHIEF JUSTICE TERRELL: All those in favor of the motion signify by saying "Aye." (Those in favor of the motion so voted.)

CHIEF JUSTICE TERRELL: Those opposed, "No." The motion is carried.

Whereupon, the Senate, sitting as a Court of Impeachment, adjourned at 4:20 o'clock P. M., until 9:30 o'clock A. M., Wednesday, July 31, 1957.